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Presidential Documents

Title 3—

The President

Executive Order 14111 of November 27, 2023

Interagency Security Committee

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the quality and effectiveness of security in and protection of buildings and facilities in the United States occupied by Federal employees or Federal contractor workers for nonmilitary activities, and to provide an ongoing entity to address continuing Government-wide security for Federal facilities, it is hereby ordered as follows:

Section 1. *Establishment.* There is hereby established the Interagency Security Committee (Committee). The Committee shall consist of:

(a) the Secretary of Homeland Security (Secretary);

(b) representatives from the following executive departments and agencies (agencies), designated by the heads of such agencies:

(i) the Department of State;

(ii) the Department of the Treasury;

(iii) the Department of Defense;

(iv) the Department of Justice;

(v) the Department of the Interior;

(vi) the Department of Agriculture;

(vii) the Department of Commerce;

(viii) the Department of Labor;

(ix) the Department of Health and Human Services;

(x) the Department of Housing and Urban Development;

(xi) the Department of Transportation;

(xii) the Department of Energy;

(xiii) the Department of Education;

(xiv) the Department of Veterans Affairs;

(xv) the Environmental Protection Agency;

(xvi) the Office of Management and Budget;

(xvii) the Office of the Director of National Intelligence; and

(xviii) the General Services Administration;

(c) the following officials or their designees:

(i) the Director of the United States Marshals Service;

(ii) the Director of the Federal Protective Service;

(iii) the Director of the Central Intelligence Agency;

(iv) the Director of the Office of Personnel Management; and

(v) the Director of the Federal Bureau of Investigation; and

(d) such other Federal officials as the President may from time to time designate.

Sec. 2. *Chair.* The Committee shall be chaired by the Secretary or the designee of the Secretary.

Sec. 3. *Working Groups.* The Committee is authorized to establish interagency working groups to perform such tasks as may be directed by the Committee.

Sec. 4. *Consultation.* The Committee may consult with officials in other Federal Government entities, including the Administrative Office of the United States Courts and the United States Postal Service, to perform its responsibilities under this order, and, at the discretion of the Committee, officials from other Federal Government entities may participate in the interagency working groups.

Sec. 5. *Duties and Responsibilities.* The Committee shall:

(a) establish policies and standards for security in and protection of Federal facilities;

(b) evaluate existing security standards for Federal facilities and develop a strategy to monitor the implementation of such standards to ensure compliance by agencies;

(c) take such actions as may be necessary to enhance the quality and effectiveness of security in and protection of Federal facilities, including:

(i) encouraging agencies with security responsibilities to share security-related intelligence in a timely and cooperative manner;

(ii) assessing technology and information systems as means of providing cost-effective improvements to security in Federal facilities;

(iii) developing long-term construction standards for those locations with threat levels or missions that require blast-resistant structures or other specialized security requirements;

(iv) evaluating standards for the location of, and special security related to, child care centers in Federal facilities;

(v) assisting the Secretary in developing and maintaining a centralized security database of all Federal facilities; and

(vi) providing best practices for securing a mobile Federal workforce; and

(d) no later than 1 year after the date of this order and biennially thereafter, prepare and provide to the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs a summary report describing the results of compliance under subsection 6(c) of this order.

Sec. 6. *Agency Support and Cooperation.* (a) To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Committee such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions under this order.

(b) Each agency shall cooperate and comply with the requirements of this order and the policies and standards of the Committee issued pursuant to this order, except in situations in which the Director of National Intelligence, or other United States Intelligence Community official within the Office of the Director of National Intelligence designated by the Director of National Intelligence, determines that compliance would jeopardize intelligence sources and methods. To the extent permitted by law and subject to the availability of appropriations, agencies shall provide such cooperation and compliance as may be necessary to enable the Committee to perform its duties and responsibilities under this order.

(i) Each agency shall designate a senior official who shall be responsible for agency implementation of, and compliance with, this order.

(ii) The senior official shall ensure that the official's agency supports Facility Security Committees, as applicable, in the performance of the official's duties.

(c) The Secretary shall monitor agency compliance with the policies and standards of the Committee. Monitoring compliance shall consist, at a minimum, of the following:

(i) maintaining compliance benchmarks to measure compliance progress;

(ii) requiring periodic compliance reporting by all relevant agencies; and

(iii) conducting risk-based compliance verification.

(d) In situations in which a Federal facility is occupied by multiple agencies for both military and nonmilitary activities, and each such occupancy is substantial, those occupants shall coordinate on the security of the facility.

Sec. 7. *Administrative Provision.* This order supersedes Executive Order 12977 of October 19, 1995 (Interagency Security Committee), which is hereby revoked. To the extent that this order is inconsistent with any provision of any previous Executive Order or Presidential Memorandum, this order shall control. All policies and standards implemented by the Interagency Security Committee that was established pursuant to Executive Order 12977 shall remain in effect until rescinded or replaced by the Committee established pursuant to this order.

Sec. 8. *Definitions.* For purposes of this order:

(a) ''Agency'' means an executive agency, as defined in section 105 of title 5, United States Code.

(b) ''Federal facility'' means a federally owned or leased building, structure, or the land it resides on, in whole or in part, that is regularly occupied by Federal employees or Federal contractor workers for nonmilitary activities. The term ''Federal facility'' also means any building or structure acquired by a contractor through ownership or leasehold interest, in whole or in part, solely for the purpose of executing a nonmilitary Federal mission or function under the direction of an agency. The term ''Federal facility'' does not include public domain land, including improvements thereon; withdrawn lands; or buildings or facilities outside of the United States.

(c) ''Federal employee'' means an employee, as defined in section 2105 of title 5, United States Code, of an agency.

(d) ''Federal contractor worker'' means any individual who performs work for or on behalf of any agency under a contract, subcontract, or contract-like instrument and who, in order to perform the work specified under the contract, subcontract, or contract-like instrument, requires access to space, information, information technology systems, staff, or other assets of the Federal Government in buildings and facilities of the United States. Such contracts include the following:

(i) personal service contracts;

(ii) contracts between any non-Federal entity and any agency; and

(iii) subcontracts between any non-Federal entity and another non-Federal entity to perform work related to the primary contract with an agency.

(e) ''Facility Security Committee'' means a committee that is established in accordance with an Interagency Security Committee standard, and that is responsible for addressing facility-specific security issues and approving the implementation of security measures and practices in multi-tenant facilities.

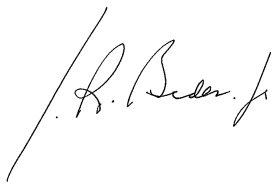
Sec. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
November 27, 2023.

[FR Doc. 2023–26569
Filed 11–30–23; 8:45 am]
Billing code 3395–F4–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1409; Project Identifier MCAI–2022–01645–T; Amendment 39–22610; AD 2023–23–08]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–07–05, which applied to all Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–07–05 required repetitive inspections for cracking of the 10VU rack fitting lugs and repair of any cracking. This AD continues to require the requirements of AD 2019–07–05, with reduced compliance times and removes airplanes having a certain modification from the applicability. This AD was prompted by a determination that certain repetitive inspection intervals need to be revised. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 5, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 5, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1409; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* website *airbus.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–1409.

FOR FURTHER INFORMATION CONTACT: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email *Timothy.P.Dowling@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–07–05, Amendment 39–19616 (84 FR 16386, April 19, 2019; corrected May 10, 2019 (84 FR 20542)) (AD 2019–07–05). AD 2019–07–05 applied to all Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–07–05 required repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. The FAA issued AD 2019–07–05 to address reading difficulties of flight-critical information displayed to the flightcrew during a critical phase of flight, such as an approach or takeoff, which could result in loss of airplane control at an altitude insufficient for recovery.

The NPRM published in the **Federal Register** on July 13, 2023 (88 FR 44740). The NPRM was prompted by AD 2022–0266, dated December 22, 2022, issued by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union (EASA AD 2022–0266) (also referred to as the MCAI). The MCAI states that during an unscheduled maintenance operation on an A330 airplane, the 10VU rack was removed for access, and cracks were discovered on 10VU rack side fittings on lugs 1, 3, and 4. As a similar design is installed on A320 family airplanes, a sampling review was done to determine the possible fleet impact. The result showed that several airplanes had cracked or broken 10VU rack side fittings. This condition, if not detected and corrected, could lead to a high vibration level on the primary flight and navigation displays during critical flight phases (take-off and landing), possibly creating reading difficulties for the crew.

In the NPRM, the FAA proposed to continue to require repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. In the NPRM, the FAA also proposed to require reduced compliance times and to remove airplanes having a certain modification from the applicability. The FAA is issuing this AD to address reading difficulties of flight-critical information displayed to the flightcrew during a critical phase of flight, such as an approach or takeoff, which could result in loss of airplane control at an altitude insufficient for recovery.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1409.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

The FAA received additional comments from United Airlines (United). The following presents United's comments received on the NPRM and the FAA's response to each comment.

Request To Revise Compliance Time

United requested revising the proposed AD to add a grace period for the reduced compliance times of the repetitive inspections. United stated that it accomplished the initial inspections on most of the fleet and already scheduled the repetitive inspections within the 20,000-flight-cycle or 40,000-flight-hour interval specified in AD 2019–07–05. United pointed out that the repetitive interval is reduced to 10,000 flight cycles or 20,000 flight hours in the proposed AD. United suggested a grace period of 20,000 flight cycles or 40,000 flight hours for the first repeat inspection and then 10,000 flight cycles or 20,000 flight hours for the following repeat inspections.

The FAA does not agree with the commenter's request to provide a grace period. In developing an appropriate compliance time for this action, the FAA considered the recommendations of the manufacturer and EASA, the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required repair within a period of time that corresponds to the normal scheduled maintenance for most affected operators. The compliance times are not expected to ground any airplanes upon the effective date of this AD. United has not provided data for the FAA to consider. However, under the provisions of paragraph (l)(1) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Allow Flight With Known Cracking

United requested that the FAA revise the proposed AD to align more closely with EASA AD 2022–0266; Airbus Service Bulletin A320–92–1087, Revision 04, dated May 16, 2022; and Airbus Service Bulletin A320–92–1119, Revision 02, dated May 16, 2022. United stated that these documents allow further flights up to 5,000 flight cycles, 10,000 flight hours, or 24 months, whichever occurs first, after any finding of cracking on a single 10VU lug. The proposed AD would require repair before further flight for any number of lugs found to have cracking.

The FAA generally does not allow flights with known cracking. Therefore, the FAA requires repairing known cracks before further flight (although the FAA might make exceptions in certain cases of unusual need, as discussed below). This is based on the fact that such damaged airplanes do not conform to the FAA-certificated type design and, therefore, are not airworthy until a properly approved repair is made. While the FAA recognizes that repair deferrals might be necessary at times, the FAA intends to minimize adverse human factors relating to the lack of reliability of long-term repetitive inspections, which might reduce the safety of the type-certificated design if such repair deferrals are practiced routinely.

As noted above, the FAA might allow an exception to these requirements in certain cases, if there is an unusual need for a temporary deferral and if the temporary fix will maintain an adequate level of safety. Unusual needs include such circumstances as legitimate difficulty in acquiring parts to accomplish repairs. Under such conditions, the FAA might allow a temporary deferral of the repair, subject to a stringent inspection program acceptable to the FAA. The FAA acknowledges that the manufacturer has specified inspection intervals that are intended to allow continued operation with known cracks, and to prevent the need for extensive repairs. However, since the FAA is not aware of any unusual need for repair deferral in regard to this AD, the FAA has not evaluated these inspection intervals.

The FAA considers the compliance times in this AD to be adequate to allow operators to acquire parts to have on hand in the event that a crack is detected during inspection. Therefore, the FAA has determined that, due to the safety implications and consequences associated with such cracking, any 10VU lug that is found to be cracked must be repaired or modified before further flight. The FAA has not changed this AD in this regard.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Service Bulletins A320–92–1087, Revision 04, dated May 16, 2022; and A320–92–1119, Revision 02, dated May 16, 2022. This service information specifies procedures for repetitive inspections for cracking of the 10VU rack fitting lugs, and repair of any cracking. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 461 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections (retained actions from AD 2019–07–05).	2 work-hours × $85 per hour = $170	$0	$170	$78,370

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $85 per product.

The FAA estimates the following costs to do any necessary repairs that would be required based on the results of the inspection. The FAA has no way of determining the number of aircraft that might need these repairs:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
83 work-hours × $85 per hour = $7,055	$9,140	$16,195

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–07–05, Amendment 39–19616 (84 FR 16386, April 19, 2019; corrected May 10, 2019 (84 FR 20542)); and

■ b. Adding the following new AD:

2023–23–08 Airbus SAS: Amendment 39–22610; Docket No. FAA–2023–1409; Project Identifier MCAI–2022–01645–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 5, 2024.

(b) Affected ADs

This AD replaces AD 2019–07–05, Amendment 39–19616 (84 FR 16386, April 19, 2019; corrected May 10, 2019 (84 FR 20542)) (AD 2019–07–05).

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, all manufacturer serial numbers, except those on which Airbus modification 157335 has been embodied in production.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 92, Electric and electronic common installation.

(e) Unsafe Condition

This AD was prompted by a report of cracks found during maintenance inspections on certain 10VU rack fitting lugs, and a determination that certain compliance times need to be revised. The FAA is issuing this AD to address reading difficulties of flight-critical information displayed to the flightcrew during a critical phase of flight, such as an approach or takeoff, which could result in loss of airplane control at an altitude insufficient for recovery.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Definitions, With No Changes

This paragraph restates the definitions of paragraph (g) of AD 2019–07–05, with no changes. For the purpose of this AD, Group 1 airplanes are in a pre-Airbus Modification 35869 configuration, and Group 2 airplanes are in a post-Airbus Modification 35869 configuration.

(h) Retained Repetitive Inspections, With Reduced Inspection Intervals and Revised Service Information

This paragraph restates the requirements of paragraph (h) of AD 2019–07–05, with reduced inspection intervals and revised service information.

(1) For Group 1 airplanes: At the later of the times specified in Figure 1 to paragraph (h)(1) of this AD, do a detailed inspection for cracking of the 10VU rack fitting lugs, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1087, Revision 04, dated May 16, 2022. Repeat the inspection thereafter at intervals not to exceed 10,000 flight cycles or 20,000 flight hours, whichever occurs first.

Figure 1 to Paragraph (h)(1)—Initial Inspection Compliance Time for Group 1 Airplanes

Compliance Time (whichever occurs later, A or B)	
A	Prior to exceeding 30,000 total flight cycles or 60,000 total flight hours, whichever occurs first; or within 24 months after November 22, 2016 (the effective date of AD 2016-19-14, Amendment 39-18663 (81 FR 71602, October 18, 2016)) (AD 2016-19-14); whichever occurs later
B	Within 24 months after the effective date of this AD, without exceeding 20,000 flight cycles or 40,000 flight hours, whichever occurs first, since the most recent inspection done as specified in Airbus Service Bulletin A320-92-1087

(2) For Group 2 airplanes: At the later of the times specified in Figure 2 to paragraph (h)(2) of this AD, do a detailed inspection for cracking of the 10VU rack fitting lugs, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1119, Revision 02, dated May 16, 2022. Repeat the inspection thereafter at intervals not to exceed 10,000 flight cycles or 20,000 flight hours, whichever occurs first.

Figure 2 to Paragraph (h)(2)—Initial Inspection Compliance Time for Group 2 Airplanes

Compliance Time (whichever occurs later, A or B)	
A	Prior to exceeding 30,000 total flight cycles or 60,000 total flight hours, whichever occurs first; or within 30 days after May 24, 2019 (the effective date of AD 2019-07-05); whichever occurs later.
B	Within 24 months after the effective date of this AD, without exceeding 20,000 flight cycles or 40,000 flight hours, whichever occurs first, since the most recent inspection done as specified in Airbus Service Bulletin A320-92-1119

(i) Retained Repair, With Revised Service Information

This paragraph restates the requirements of paragraph (i) of AD 2019–07–05, with revised service information. If any crack is found during any inspection required by paragraph (h)(1) or (2) of this AD: Before further flight, do a repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–92–1087, Revision 04, dated May 16, 2022 (for Group 1 airplanes); or Airbus Service Bulletin A320–92–1119, Revision 02, dated May 16, 2022 (for Group 2 airplanes); as applicable. Repair of a 10VU rack fitting lug does not terminate the repetitive inspections required by paragraphs (h)(1) and (2) of this AD.

(j) Reporting Requirement

At the applicable time specified in paragraph (j)(1) or (2) of this AD: Submit a report of findings (positive and negative) of each inspection required by paragraph (h) of this AD to Airbus Service Bulletin Reporting Online Application on Airbus World (airbus.com) or in accordance with B. ''Reporting Sheet'' of the Appendix of Airbus Service Bulletin A320–92–1087, Revision 04, dated May 16, 2022 (for Group 1 airplanes); or Airbus Service Bulletin A320–92–1119, Revision 02, dated May 16, 2022 (for Group 2 airplanes); as applicable.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(k) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraphs (h)(1) and (i) of this AD, if those actions were performed before May 24, 2019 (the effective date of AD 2019–07–05), using Airbus Service Bulletin A320–92–1087, dated March 28, 2011, which is not incorporated by reference in this AD; or Airbus Service Bulletin A320–92–1087, Revision 01, dated May 17, 2011, which is not incorporated by reference in this AD; or Airbus Service Bulletin A320–92–1087, Revision 02, dated November 25, 2014, which was incorporated by reference in AD 2016–19–14.

(2) This paragraph provides credit for actions required by paragraphs (h)(1) and (i) of this AD, if those actions were performed before the effective date of this AD, using Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017, which was incorporated by reference in AD 2019–07–05.

(3) This paragraph provides credit for actions required by paragraphs (h)(2) and (i) of this AD, if those actions were performed before the effective date of this AD, using Airbus Service Bulletin A320–92–1119, dated July 28, 2017, which was incorporated by reference in AD 2019–07–05; or Airbus Service Bulletin A320–92–1119, Revision 01, dated August 5, 2019, which is not incorporated by reference in this AD.

(4) This paragraph provides credit for the reporting required by paragraph (j)(2) of this AD, if that action was performed before the effective date of this AD in accordance with the instructions of Airbus Service Bulletin A320A–92–1087, Revision 03, dated July 31, 2017 (for Group 1 airplanes); or Airbus Service Bulletin A320–92–1119, dated July 28, 2017 (for Group 2 airplanes); as applicable; except where Figure A–FAAAA, Sheet 02, of Appendix 01, ''Inspection Report,'' of Airbus Service Bulletin A320–92–1087, Revision 03, dated July 31, 2017; and Figure A–FAAAA, Sheet 02, of Appendix 01, ''Inspection Report,'' of Airbus Service Bulletin A320–92–1119, dated July 28, 2017; specifies sending removed lugs to Airbus for investigation, that action is not required by this AD. Airbus Service Bulletin

A320A–92–1087, Revision 03, dated July 31, 2017; and Airbus Service Bulletin A320–92–1119, dated July 28, 2017; were incorporated by reference in AD 2019–07–05.

(l) Additional AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (m)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov.* If mailing information, also submit information by email.

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) Global AMOC AIR–676–19–305, dated July 29, 2019, approved as an AMOC for AD 2019–07–05, is approved as an AMOC for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (l)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Additional Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2022–0266, dated December 22, 2022, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1409.

(2) For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3667; email *Timothy.P.Dowling@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(3) and (4) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A320–92–1087, Revision 04, dated May 16, 2022.

(ii) Airbus Service Bulletin A320–92–1119, Revision 02, dated May 16, 2022.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* website *airbus.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on November 16, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–26404 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2154; Project Identifier MCAI–2023–00763–T; Amendment 39–22612; AD 2023–23–10]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Embraer S.A. Model ERJ 190–300 airplanes. This AD was prompted by a report of unexpected wear on the wing hinge bearing assembly of the aileron surfaces found during the functional test of the aileron control system backlash. This AD requires repetitive inspections of the press-fitted bushings of the wing ailerons for migration and broken sealant, measurements of the distance between the aileron surfaces and hinge fittings, functional checks of the backlash of the wing aileron control system, and all applicable related investigative and corrective actions, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 18, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 18, 2023.

The FAA must receive comments on this AD by January 16, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2154; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* website *anac.gov.br/en/.* You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at

regulations.gov under Docket No. FAA–2023–2154.

FOR FURTHER INFORMATION CONTACT: Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 817–222–5366; email: *joshua.k.bragg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–2154; Project Identifier MCAI–2023–00763–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 817–222–5366; email: *joshua.k.bragg@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2023–06–01, effective June 16, 2023 (ANAC AD 2023–06–01) (also referred to as the MCAI), to correct an unsafe condition for all Embraer S.A. Model ERJ 190–300 airplanes. The MCAI states unexpected wear, which was beyond the certification limits of the airplane, was found on the wing hinge bearing assembly of the aileron surfaces during the functional test of the aileron control system backlash. Excessive backlash may result in a limit cycle oscillation phenomenon exposing the surrounding structure and systems to unacceptable vibration levels and reducing the airplane controllability.

The FAA is issuing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2154.

Related Service Information Under 1 CFR Part 51

ANAC AD 2023–06–01 specifies procedures for repetitive general visual inspections of the press-fitted bushings of the left-hand (LH) and right-hand (RH) wing ailerons for migration and broken sealant; repetitive detailed inspections to measure the distance between the LH and RH wing aileron surfaces and hinge fittings; repetitive functional checks of the backlash of the LH and RH wing aileron control system; and applicable related investigative and corrective actions. The related investigative actions include a detailed inspection of the torque values of the attachments parts on the LH and RH wing aileron surfaces; a general visual inspection of the press-fitted bushings on the LH and RH aileron surfaces, as applicable, for damage (*i.e.,* elongation, scratches, nicks) and rotation or migration (*i.e.,* gap between the bushing flange and lug, or broken sealant around the bushing); a general visual inspection of the sliding bushings of the LH and RH aileron surfaces, as applicable, for damage (*i.e.,* scratches, steps, and dents) and migration of the press-fitted bushing pair; a detailed inspection to measure the outer diameter of the sliding bushings; a detailed inspection to check the inner diameter of the press-fitted bushings of certain aileron fittings; measurement of the outer diameters of the mating sliding bushing and bolt shank; and an operational check of the aileron control system, or a rigging procedure and deflection check, as applicable. The corrective actions include retorquing the nuts and installing cotterpins on the bolts and nuts of the attachment parts on the LH and RH wing aileron surfaces; and replacing the bearings and press-fitted and sliding bushings.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in ANAC AD 2023–06–01 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, ANAC AD 2023–06–01 is incorporated by reference in this AD. This AD requires compliance with ANAC AD 2023–06–01 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Service information required by ANAC AD 2023–06–01 for compliance will be available at *regulations.gov* under Docket No. FAA–2023–2154 after this AD is published.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and

seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the forgoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product
Up to 8 work-hours × $85 per hour = $680	$0	Up to $680.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 22 work-hours × $85 per hour = $1,870	$500	Up to $2,370.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2023–23–10 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39–22612; Docket No. FAA–2023–2154; Project Identifier MCAI–2023–00763–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 18, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Model ERJ 190–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a report of unexpected wear on the wing hinge bearing assembly of the aileron surfaces found during the functional test of the aileron control system backlash. The FAA is issuing this AD to address wear on the wing hinge bearing assembly of the aileron surfaces that could lead to excessive backlash. The unsafe condition, if not addressed, could result in a limit cycle oscillation phenomenon exposing the surrounding structure and systems to unacceptable vibration levels and reducing the airplane controllability.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Agência Nacional de Aviação Civil (ANAC) AD 2023–06–01, effective June 16, 2023 (ANAC AD 2023–06–01).

(h) Exceptions to ANAC AD 2023–06–01

(1) Where ANAC AD 2023–06–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraphs (b)(2)(i) and (b)(3)(i) of ANAC AD 2023–06–01 specify ''before the next flight, accomplish the paragraph (c) of this AD after to accomplish the paragraph (b)(4) of this AD'' as corrective actions for certain conditions, this AD requires replacing those words with ''before the next flight, accomplish paragraph (c) of this AD after accomplishing paragraph (b)(4) of this AD.''

(3) Where paragraph (b)(3) of ANAC AD 2023–06–01 specifies to ''measure de distances,'' this AD requires replacing those words with ''measure the distances.''

(4) All applicable related investigative and corrective actions specified in paragraphs (b)(4)(iii) and (b)(4)(iii)(a) of ANAC AD 2023–06–01 must be done before the next flight after the functional check of the left-hand (LH) and right-hand (RH) wing aileron control system.

(5) All applicable related investigative actions specified in paragraph (c)(4)(ii) of ANAC AD 2023–06–01 must be done before the next flight after the detailed inspection on the LH and RH removed aileron surface, as applicable.

(6) Where paragraph (d) of ANAC AD 2023–06–01 specifies to repeat the inspections ''at each 5,500 FH,'' this AD requires replacing those words with ''at intervals not to exceed 5,500 FH.''

(7) This AD does not adopt paragraph (e) of ANAC AD 2023–06–01.

(8) Although the service information specified in ANAC AD 2023–06–01 specifies returning certain parts the manufacturer, this AD does not include that requirement.

(i) No Reporting Requirement

Although the service information in ANAC AD 2023–05–02 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(k) Additional Information

For more information about this AD, contact Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 817–222–5366; email: *joshua.k.bragg@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023–06–01, effective June 16, 2023.

(ii) [Reserved]

(3) For ANAC AD 2023–06–01, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email: *pac@anac.gov.br;* website *anac.gov.br/en/.* You may find this ANAC AD on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on November 16, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–26383 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1713; Project Identifier MCAI–2023–00781–T; Amendment 39–22582; AD 2023–21–10]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42–500 and ATR72–212A airplanes. This AD was prompted by reports of loose fasteners and cracks in the horizontal stabilizer (HS) left- and right-hand leading edge lateral ribs, the box in between, the center box upper panel, and HS forward back-up fitting. This AD requires an inspection of the HS affected areas for discrepancies and applicable corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 5, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 5, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2023–1713; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- For ATR—GIE Avions de Transport Régional service information incorporated by reference in this AD, contact ATR—GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email continued.airworthiness@atr aircraft.com; website *atr-aircraft.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1713.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590;

telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR—GIE Avions de Transport Régional Model ATR42–500 and ATR72–212A airplanes. The NPRM published in the **Federal Register** on August 14, 2023 (88 FR 54944). The NPRM was prompted by AD 2023–0125, dated June 22, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0125) (also referred to as the MCAI). The MCAI states that several occurrences of loose fasteners and cracks on the HS left- and right-hand leading edge lateral ribs, the box in between, the center box upper panel, and HS forward back-up fitting have been reported. Subsequent investigations identified possible manufacturing errors and a list of horizontal tail planes that could be affected by similar issues. This condition, if not detected and corrected, could reduce the structural integrity of the airplane.

In the NPRM, the FAA proposed to require an inspection of the HS affected areas (HS left-hand and right-hand leading edge lateral ribs, the box in between, the center box upper panel, and HS forward back-up fitting). for discrepancies and applicable corrective action, as specified in EASA AD 2023–0125. The FAA is issuing this AD to address loose, missing, or incorrectly installed fasteners, composite delamination, and cracks in the HS. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1713.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0125 specifies procedures for a one-time detailed inspection of the HS left- and right-hand leading edge lateral ribs, the box in between, the center box upper panel, and HS forward back-up fitting for discrepancies (*i.e.,* loose, missing, and incorrectly installed fasteners, composite delamination, and a cracked fitting); and applicable corrective action. The corrective action includes contacting the manufacturer for repair instructions if any discrepancy is detected during any inspection.

ATR Service Bulletin ATR42–55–0020, dated March 2, 2023; and ATR Service Bulletin ATR72–55–1013, dated March 2, 2023; identify the affected airplane serial numbers.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 16 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
8 work-hours × $85 per hour = $680	$0	$680	$10,880

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2023–21–10 ATR—GIE Avions de Transport Régional: Amendment 39–22582; Docket No. FAA–2023–1713; Project Identifier MCAI–2023–00781–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 5, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional Model ATR42–500 and ATR72–212A airplanes, certificated in any category, as identified in ATR Service Bulletin ATR42–55–0020, dated March 2, 2023; or ATR Service Bulletin ATR72–55–1013, dated March 2, 2023; as applicable.

(d) Subject

Air Transport Association (ATA) of America Code: 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by reports of loose fasteners and cracks in the horizontal stabilizer (HS) left- and right-hand leading edge lateral ribs, the box in between, the center box upper panel, and HS forward back-up fitting. The FAA is issuing this AD to address loose, missing, or incorrectly installed fasteners, composite delamination, and cracks in the HS. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0125, dated June 22, 2023 (EASA AD 2023–0125).

(h) Exceptions to EASA AD 2023–0125

(1) Where paragraph (1) of EASA AD 2023–0125 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (2) of EASA AD 2023–0125 specifies to ''contact ATR for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly'' if any discrepancy is detected, for this AD if any crack is detected, the crack must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0125.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2023–0125 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

For more information about this AD, contact Shahram Daneshmandi, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0125, dated June 22, 2023.

(ii) ATR Service Bulletin ATR42–55–0020, dated March 2, 2023.

(iii) ATR Service Bulletin ATR72–55–1013, dated March 2, 2023.

(3) For EASA AD 2023–0125, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website *ad.easa.europa.eu.*

(4) For ATR service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr aircraft.com;* website *atr-aircraft.com.*

(5) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(6) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit: *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on October 20, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–26381 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1710; Project Identifier MCAI–2023–00243–T; Amendment 39–22600; AD 2023–22–16]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. This AD was prompted by reports from the supplier that sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill, which can result in an inability to detect hot bleed air leaks. This AD requires testing of all affected overheat detection sensing elements of the bleed air leak detection system, and replacement if necessary. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 5, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 5, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1710; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and

other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Bombardier service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*
- For Kidde Aerospace & Defense service information identified in this final rule, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Building B, Wilson, NC 27896; telephone: 319–295–5000; website: *kiddetechnologies.com/aviation.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2023–1710.

FOR FURTHER INFORMATION CONTACT: Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. The NPRM published in the **Federal Register** on August 14, 2023 (88 FR 54946). The NPRM was prompted by AD CF–2023–05, dated February 8, 2023, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that Bombardier received reports from the supplier of the overheat detection sensing elements of a manufacturing quality escape. Some of the sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill, which can result in an inability to detect hot bleed air leaks and cause damage to surrounding structures and systems that can prevent continued safe flight and landing.

In the NPRM, the FAA proposed to require testing of all affected overheat detection sensing elements of the bleed air leak detection system, and replacement if necessary. In the NPRM, the FAA also proposed to prohibit the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1710.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Bombardier. The following presents the comment received on the NPRM and the FAA's response to the comment.

Request for Removal of Certain Variants

Bombardier requested that the FAA remove reference to the 601–3A and 601–3R Variants from the proposed AD. Bombardier stated that Model CL–600–2B16 601–3A and 601–3R Variants are not affected by the identified unsafe condition; only Model CL–600–2B16 604 Variant airplanes are affected.

The FAA agrees and notes that the 604 Variant airplanes are those having serial numbers 5301 and subsequent, therefore, the 601–3A and 601–3R Variants are not applicable to this AD. The FAA revised the Summary, Background, and paragraph (c) of this AD accordingly.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletin 604–36–005, Bombardier Service Bulletin 605–36–002, and Bombardier Service Bulletin 650–36–001, all dated December 23, 2022. This service information specifies procedures for testing affected bleed air leak detection system sensing elements (*i.e.,* those marked with a date code before ''A2105'' (which corresponds to January 31, 2021) with a part number defined in this service information) to determine if they are serviceable and replacing failed sensing elements with serviceable ones. These documents are distinct since they apply to different airplane serial numbers.

The FAA reviewed Kidde Aerospace & Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022. This service information specifies affected continuous fire detector part numbers and testing procedures.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 694 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 37 work-hours × $85 per hour = Up to $3,145	$0	Up to $3,145	Up to $2,182,630.

The estimates the following costs to do any necessary on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions.

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
37 work-hours × $85 per hour = $3,145	$4,000 *	$7,145

* The FAA has received no definitive data on which to base the cost estimates for the parts specified in this AD. This is the estimated cost for replacement of 2 percent of the failed sensing elements. If all sensing elements failed, the estimated parts cost would be $40,000 for each airplane.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2023–22–16 Bombardier, Inc.: Amendment 39–22600; Docket No. FAA–2023–1710; Project Identifier MCAI–2023–00243–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 5, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes, certificated in any category, serial numbers 5580 through 5665 inclusive, 5701 through 5988 inclusive, and 6050 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code: 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports that sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill. The FAA is issuing this AD to address insufficient salt fill, which can result in an inability to detect hot bleed air leaks, which can cause damage to surrounding structures and systems that can prevent continued safe flight and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definitions

For the purposes of this AD, the definitions specified in paragraphs (g)(1) and (2) of this AD apply.

(1) Affected part: A sensing element marked with a date code before A2105 and having a part number listed in Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022; unless the sensing element meets the conditions specified in paragraphs (g)(1)(i) and (ii) of this AD, or has passed the test specified in paragraph (h) of this AD.

(i) Has been tested in accordance with the Accomplishment Instructions of Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022, and passed the test; and

(ii) Has been marked on one face of its connector hex nut in accordance with paragraph 3.C., Identification Procedure, of Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022.

(2) Serviceable part: A sensing element that is not an affected part.

(h) Testing

For airplane serial numbers 5580 through 5665 inclusive, 5701 through 5988 inclusive, and 6050 through 6174 inclusive: Within 7,800 flight cycles or 96 months, whichever occurs first, from the effective date of this AD, test the bleed air leak detection system sensing elements to determine if they are serviceable, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (h)(1) through (3) of this AD. If the sensing element is found serviceable, before further flight, mark the sensing element with a green mark in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (h)(1) through (3) of this AD. If the sensing element is found not serviceable, before further flight, replace the sensing element with a serviceable part in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (h)(1) through (3) of this AD.

(1) For Model CL–600–2B16 airplanes, serial numbers 5580 through 5665 inclusive (Challenger 604): Use Bombardier Service Bulletin 604–36–005, dated December 23, 2022.

(2) For Model CL–600–2B16 airplanes, serial numbers 5701 through 5988 inclusive (Challenger 605): Use Bombardier Service Bulletin 605–36–002, dated December 23, 2022.

(3) For Model CL–600–2B16 airplanes, serial numbers 6050 through 6174 inclusive (Challenger 650): Use Bombardier Service Bulletin 650–36–001, dated December 23, 2022.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected part on any airplane.

(j) No Reporting Requirement

Although the service information referenced in paragraph (g)(1) of this AD and paragraphs (h)(1) through (3) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Manager, International Validation Branch, mail it to the address identified in paragraph (l)(2) of this AD or email to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (k)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(l) Additional Information

(1) Refer to Transport Canada AD CF–2023–05, dated February 8, 2023, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2023–1710.

(2) For more information about this AD, contact Gabriel Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 604–36–005, dated December 23, 2022.

(ii) Bombardier Service Bulletin 605–36–002, dated December 23, 2022.

(iii) Bombardier Service Bulletin 650–36–001, dated December 23, 2022.

(iv) Kidde Aerospace and Defense Service Bulletin CFD–26–1, Revision 6, dated February 28, 2022.

Note 1 to paragraph (m)(2)(iv): The revision level of this service bulletin is only identified on the transmittal sheet.

(3) For Bombardier service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website bombardier.com.

(4) For Kidde Aerospace & Defense service information identified in this AD, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Building B, Wilson, NC 27896; telephone: 319–295–5000; website: *kiddetechnologies.com/aviation.com.*

(5) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 2, 2023.

Victor Wicklund,

Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–26382 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG–2023–0933]

RIN 1625–AA00

Safety Zone, Upper Mississippi River MM 660.5–659.5, Lansing, IA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Upper Mississippi River at Mile Marker (MM) 660.5 through 659.5. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with the implosion of the Lansing Power Station. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective without actual notice from December 1, 2023 through December 8, 2023. For the purposes of enforcement, actual notice will be used from November 28, 2023, until December 1, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0933 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MSTC Nathaniel Dibley, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Nathaniel.D.Dibley@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because a temporary safety zone must be established immediately to protect personnel, vessels, and the marine environment from potential hazards created by the use of explosives for the implosion of the power plant and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. It is impracticable to publish an NPRM because we must establish this safety zone by November 28, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because action is needed to respond to the potential safety hazards associated the use of explosives for the implosion of the Lansing Power Station starting November 28, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the use of explosions for the implosion of the Lansing Power Plant will be a safety concern for anyone operating or transiting within the Upper Mississippi River from MM 660.5 through 659.5. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the implosion is being conducted.

IV. Discussion of the Rule

The implosion event will be occurring on two dates in which explosives will be used on an implosion of the Lansing Power Plant located between MM 660.5–659.5 beginning November 28, 2023. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in the size of the safety zone through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone would impact a small designated area located on the Upper Mississippi River at MM 660.5–659.5, near Lansing, IA. The Safety Zone is expected to be active only during the implosion events, from November 28 until December 08, 2023. Vessel traffic will be able to safely transit around this safety zone when the safety zone is not enforced.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator because the zone will be enforced only when work is being conducted.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing the width of the Upper Mississippi River at MM 660.5–659.5. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T08–0933 to read as follows:

§ 165.T08–0933 Safety Zone; Upper Mississippi River, Mile Markers 660.5–659.5, Lansing, IA.

(a) *Location.* The following area is a safety zone: all navigable waters within Upper Mississippi River, Mile Markers 660.5–659.5, Lansing, IA.

(b) *Enforcement period.* This section will be subject to enforcement from November 28, 2023, through December 08, 2023.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: November 27, 2023.

A.R. Bender,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2023–26377 Filed 11–30–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0916]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Concord, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive handling operations at Military Ocean Terminal Concord (MOTCO) on November 26, 2023, through December 3, 2023. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port (COTP) San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on November 26, 2023, until 11:59 p.m. on December 3, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LT William Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division, at 415–399–7443, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 on November 26, 2023, until 11:59 p.m. on December 3, 2023, or as announced via marine information bulletin. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198(a), specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement period, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you mut comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts.

Dated: November 27, 2023.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2023–26411 Filed 11–30–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2020–0432; FRL–10121–02–R2]

Approval and Promulgation of Air Quality Implementation Plans; New Jersey; Regional Haze State Implementation Plan for the Second Implementation Period

Correction

In Rule document 2023–25239, appearing on pages 78650–78655, in the issue of Thursday, November 16, 2023, make the following corrections:

1. On page 78650, in the third column, under the heading **SUMMARY:**, on the third line, the word ''Staet'' should read ''State''.

2. On page 78651, in the first column, on the sixty-sixth line, the word ''Staet'' should read ''State''.

3. On the same page, in the third column, on the ninth line, the word ''Staet'' should read ''State''.

4. On the same page, in the same column, on the thirteenth line, the word ''Staet's'' should read ''State''.

5. On the same page, in the same column, on the forty-eighth line, the word ''Staet'' should read ''State''.

6. On page 78652, in the first column, on the eleventh line, the word ''Staet'' should read ''State''.

7. On the same page, in the same column, on the sixteenth line, the word ''Staet'' should read ''State''.

8. On the same page, in the same column, on the twentieth line, the word ''Staet's'' should read ''State's''.

9. On the same page, in the second column, on the sixteenth line, the word ''Staet's'' should read ''State's''.

10. On page 78653, in the first column, on the forty-seventh line, the word ''Staet'' should read ''State''.

11. On the same page, in the second column, on the nineteenth line, the word ''Staet'' should read ''State''.

12. On the same page, in the third column, on the fifteenth line, the word ''Staet'' should read ''State''.

13. On the same page, in the same column, on the sixtieth line, the word ''Staet'' should read ''State''.

14. On page 78654, in the first column, on the third line, the word ''Staet'' should read ''State''.

15. On the same page, in the same column, on the sixth line, the word ''Staet'' should read ''State''.

16. On the same page, in the same column, on the thirty-fourth line, the word ''Staet'' should read ''State''.

[FR Doc. C1–2023–25239 Filed 11–28–23; 8:45 am]

BILLING CODE 0099–10–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[WC Docket No. 18–155; FCC 23–31; FR ID 187323]

Updating the Intercarrier Compensation Regime To Eliminate Access Arbitrage

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective and compliance dates.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with rules for notifications related to access stimulation adopted in the Second Report and Order, FCC 23–31 (April 21, 2023) (*Access Arbitrage Second Report and Order*), which was summarized in a document published on June 1, 2023. This document is consistent with the *Access Arbitrage Second Report and Order* and its summary.

DATES: The additions of 47 CFR 51.914(d) and (g) (instruction 3), published at 88 FR 35743, on June 1, 2023, and delayed indefinitely, are effective January 2, 2024. This rule is effective January 2, 2024. Compliance with this rule and the additions of § 51.914(d) and (g) is required by February 16, 2024.

FOR FURTHER INFORMATION CONTACT: Susan Bahr, Attorney Advisor, Pricing Policy Division, Wireline Competition Bureau, at (202) 418–0573, or *Susan.Bahr@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements, contact Nicole Ongele at (202) 418–2991, or *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission submitted information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on August 30, 2023, and the information collections were approved by OMB on November 7, 2023. The information collection requirements are found in the Commission's *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage,* WC Docket No. 18–155, Second Report and Order, FCC 23–31 (April 21, 2023), which was summarized in 88 FR 35743, on June 1, 2023. The OMB Control Number is 3060–0298. The Commission publishes this document as an announcement of the effective and compliance dates of the rules published on June 1, 2023. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–0298. Please include the applicable OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on November 7, 2023, for the information collection requirements contained in 47 CFR 51.914(d) and (g), published at 88 FR 35743, on June 1, 2023. Those sections have been delayed indefinitely, but are now added to 47 CFR 51.914 and will be effective January 2, 2024. In addition, the text in the delayed § 51.914(d) which states ''[the effective date of this paragraph (d)—which will be 30 days after the Commission publishes the notification of OMB approval in the **Federal Register**]'' is replaced with January 2, 2024.

This document also revises § 51.914(e) and (f) to add a reference to § 51.914(d). The references to § 51.914(d) in § 51.914(e) and (f) in the *Access Arbitrage Second Report and Order* were not added to CFR pending the receipt of OMB approval for § 51.914(d). These revisions to § 51.914(e) and (f) are effective on January 2, 2024.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0298.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0298.

OMB Approval Date: November 7, 2023.

OMB Expiration Date: November 30, 2026.

Title: Part 61, Tariffs (Other than the Tariff Review Plan).

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 3,834 respondents; 4,659 responses.

Estimated Time per Response: 1 hour–50 hours.

Frequency of Response: On occasion, annual, biennial and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 151–155, 201–205, 208, 251–271, 403, 502 and 503 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 151–155, 201–205, 208, 251–271, 403, 502 and 503.

Total Annual Burden: 171,378 hours.

Total Annual Cost: $604,000.

Needs and Uses: On April 21, 2023, the Commission released the *Access Arbitrage Second Report and Order,* WC Docket No. 18–155, FCC 23–31, 88 FR 35743, which added rules applicable to internet Protocol Enabled Service (IPES) Providers engaged in Access Stimulation. In the *Access Arbitrage Second Report and Order,* the Commission adopted rules requiring that access-stimulating IPES Providers provide notice of their status to the Commission by filing a record of their access-stimulating status in the Commission's Access Arbitrage docket, and to provide notice to any affected Interexchange Carriers (IXCs) and Intermediate Access Providers of the same, within 45 days of the effective date of that requirement after approval of that information collection by OMB (or for an entity that later engages in access stimulation, 45 days from the date it commences access stimulation). If, after the effective date of this requirement, an access-stimulating IPES Provider is no longer engaged in Access Stimulation, the IPES Provider must file notice of that change in status with the Commission and with any affected IXCs and Intermediate Access Providers.

The revisions to this collection reflect the notice and reporting requirements adopted by the Commission in the *Access Arbitrage Second Report and Order.* The information provided by IPES Providers pursuant to rules adopted in the *Access Arbitrage Second Report and Order* informs interested parties of an entity's engagement in Access Stimulation.

List of Subjects in 47 CFR Part 51

Communications; Communications common carriers, Telecommunications; Telephones.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 225–27, 251–52, 271, 332 unless otherwise noted.

■ 2. Amend § 51.914 by revising paragraphs (d) through (f) to read as follows:

§ 51.914 Additional provisions applicable to Access Stimulation traffic.

* * * * *

(d) Notwithstanding any other provision of this part, if an internet Protocol Enabled Service (IPES) Provider, as defined in § 61.3(eee) of this chapter, is engaged in Access Stimulation, as defined in § 61.3(bbb) of this chapter, it shall, within 45 days of commencing Access Stimulation, or within 45 days after January 2, 2024, whichever is later, notify in writing the Commission, all Intermediate Access Providers that it subtends, and Interexchange Carriers with which it does business of the following:

(1) That it is an IPES Provider engaged in Access Stimulation; and

(2) That it shall designate the Intermediate Access Provider(s), if any, that will provide the terminating switched access tandem switching or terminating switched access tandem transport services directly, or indirectly through a local exchange carrier, to the IPES Provider engaged in Access Stimulation; and

(3) Whether the IPES Provider will pay for those services as of that date.

(e) In the event that an Intermediate Access Provider receives notice under paragraph (b) or (d) of this section that it has been designated to provide terminating switched access tandem switching or terminating switched access tandem transport services to a local exchange carrier engaged in Access Stimulation, as defined in § 61.3(bbb) of this chapter, or to an IPES Provider engaged in Access Stimulation, directly, or indirectly through a local exchange carrier, and that local exchange carrier engaged in Access Stimulation shall pay or the IPES Provider engaged in Access Stimulation may pay for such terminating access service from such Intermediate Access Provider, the Intermediate Access Provider shall not bill Interexchange Carriers for interstate or intrastate terminating switched access tandem switching or terminating switched access tandem transport service for traffic bound for such local exchange carrier or IPES Provider but, instead, shall bill such local exchange carrier or may bill such IPES Provider for such services.

(f) Notwithstanding paragraphs (a) through (d) of this section, any local exchange carrier that is not itself engaged in Access Stimulation, as that term is defined in § 61.3(bbb) of this chapter, but serves as an Intermediate Access Provider with respect to traffic bound for a local exchange carrier engaged in Access Stimulation or bound for an IPES Provider engaged in Access Stimulation, shall not itself be deemed a local exchange carrier engaged in Access Stimulation or be affected by paragraphs (a) and (b) of this section.

* * * * *

[FR Doc. 2023–26349 Filed 11–30–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 17–310; FCC No. 23–6; FR ID 188068]

Promoting Telehealth in Rural America

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, a revision to an information collection associated with the rules for the Rural Health Care (RHC) Program contained in the Commission's Order, FCC 23–6. This document is consistent with the Order on Reconsideration, Second Report and Order, and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date

of the new information collection requirements.

DATES: The amendments to §§ 54.604 (amendatory instruction 2), 54.605 (amendatory instruction 3), and 54.627 (amendatory instruction 8), published at 88 FR 17379, March 23, 2023, are effective December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Bryan P. Boyle, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418–7400 or TTY: (202) 418–0484 or via email: *Bryan.Boyle@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements, contact Nicole Ongele at (202) 418–2991 or via email: *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission submitted new information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on October 25, 2023, which were approved by the OMB on November 27, 2023. The information collection requirements are contained in the Commission's Order on Reconsideration, Second Report and Order, and Order, FCC 23–6 published at 88 FR 17379, March 23, 2023. The OMB Control Number is 3060–0804. The Commission publishes this document as an announcement of the effective date of the rules that required PRA approval. If you have any comments on the burden estimates listed herein, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–0804, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on November 27, 2023, for the information collection requirements contained in 47 CFR 54.604, 54.605, and 54.627. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0804.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0804.

OMB Approval Date: November 27, 2023.

OMB Expiration Date: November 30, 2026.

Title: Universal Service—Rural Health Care Program.

Form Nos.: FCC Form 460, 461, 462, 463, 465, 466, 467, and 469.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or Tribal governments.

Number of Respondents and Responses: 12,854 unique respondents; 116,404 responses.

Estimated Time per Response: 0.30–17 hours.

Frequency of Response: On occasion, One-time, Annual, and Monthly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 1–4, 201–205, 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 214, 254, 303(r), and 403, unless otherwise noted.

Total Annual Burden: 442,117 hours.

Total Annual Cost: No Cost.

Needs and Uses: This collection is utilized for the RHC support mechanism of the Commission's universal service fund (USF). The Commission and USAC will use the information to determine if entities are eligible for funding pursuant to the RHC universal service support mechanism, to determine whether entities are complying with the Commission's rules, and to prevent waste, fraud, and abuse. This information also allows the Commission to evaluate the extent to which the RHC Program is meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission's performance goals for the RHC Program.

To aid in collecting this information, the public will use the Commission's forms to provide the necessary information and certifications. This revision modifies the existing information collection requirements applicable to the Telecommunications (Telecom) Program as a result of the *2023 Promoting Telehealth Order on Reconsideration, Second Report and Order, and Order,* FCC 23–6, rel. January 27, 2023 (88 FR 17379, March 23, 2023). The revisions, where applicable, are intended to simplify calculations of support in the Telecom Program and streamline the invoicing process in the Telecom Program.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2023–26421 Filed 11–30–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 660

[Docket No. 231117–0273]

RIN 0648–BM28

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 32; Modifications to Non-Trawl Sector Area Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements regulations for Amendment 32 to the Pacific Coast Groundfish Fishery Management Plan. The regulations include a suite of changes to non-trawl sector area management measures seaward of California and Oregon. The purpose of Amendment 32 is to provide fishing access to healthy groundfish stocks for non-trawl groundfish fisheries and the directed commercial Pacific halibut fishery while still meeting the conservation objectives of the Pacific Coast Groundfish Fishery Management Plan. In addition, this final rule implements minor administrative revisions to the regulations to correct the name of the Cordell Bank Groundfish Conservation Area, amend the description of the Cordell Bank Groundfish Conservation Area, add new regulatory definitions for different types

of fishing bait, and add new exemptions to Vessel Monitoring System reporting requirements.

DATES: Effective January 1, 2024.

ADDRESSES:

Electronic Access

Information relevant to Amendment 32, which includes an Environmental Assessment (EA), a Regulatory Impact Review, a Regulatory Flexibility Act analysis and a Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA) analysis (collectively referred to hereafter as Analysis), are accessible via the internet at the NMFS West Coast Region website at: *https://www.fisheries.noaa.gov/west-coast/laws-and-policies/west-coast-region-national-environmental-policy-act-documents.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS and to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, phone: 562–900–2060, or email: *Lynn.Massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish fishery in the U.S. exclusive economic zone (EEZ, defined at 50 CFR 660.10) seaward of Washington, Oregon, and California is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Pacific Fishery Management Council (Council) developed the Pacific Coast Groundfish FMP pursuant to the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The Secretary of Commerce approved the Pacific Coast Groundfish FMP and implemented the provisions of the plan through Federal regulations at 50 CFR part 660, subparts C through G. Species managed under the Pacific Coast Groundfish FMP include more than 90 species of roundfish, flatfish, rockfish, sharks, and skates.

This final rule implements regulations for Amendment 32 to the Pacific Coast Groundfish FMP (also referred to interchangeably as ''this action''). Consistent with MSA Section 303(c)(1), the Council deemed the proposed regulations consistent with and necessary to implement Amendment 32 in a July 21, 2023 letter from Council Chairman Merrick Burden to Regional Administrator Jennifer Quan. The Notice of Availability for Amendment 32, which describes the specific changes being made to the FMP, was published on August 2, 2023 (88 FR 50830) and was open for public comment through October 1, 2023. The proposed rule for Amendment 32, which includes the regulations necessary for implementing Amendment 32, was published on August 30, 2023 (88 FR 59838), and was open for public comment through September 29, 2023.

In addition to implementing changes to the regulations at 50 CFR parts 300 and 660 to implement Amendment 32, this final rule also implements minor, clarifying and administrative revisions to the regulations in part 660. These administrative changes correct the name of the Cordell Bank Groundfish Conservation Area (Cordell Bank GCA), amend the description of the Cordell Bank GCA, add new regulatory definitions for different types of fishing bait, and add new exemptions to Vessel Monitoring System (VMS) reporting requirements.

Background

In the early 2000s, several types of groundfish conservation areas (GCAs), defined at § 660.11, were implemented (as part of FMP Amendment 16–3) to protect overfished groundfish species off the U.S. West Coast; this includes the coastwide Non-Trawl Rockfish Conservation Area (Non-Trawl RCA) (68 FR 908, January 7, 2003), and the Cowcod Conservation Areas (CCAs) (66 FR 2338, January 11, 2001) in the Southern California Bight. With the rebuilt status of almost all of these groundfish species (the exception being yelloweye rockfish, which is projected to rebuild by 2029), the Council has been prioritizing increased fishing access to these areas for groundfish non-trawl fisheries (*i.e.,* the directed open access sector, the California recreational sector, the limited entry fixed gear (LEFG) sector, and vessels that use non-trawl gear under the Trawl Individual Fishing Quota (IFQ) Program). Amendment 32 and its implementing regulations included in this final rule provide additional fishing opportunity in these closures through a suite of modifications to GCA boundaries, gear specifications, and catch restrictions, while continuing to rebuild yelloweye rockfish and mitigate fishing impacts to sensitive habitats.

Revisions to Non-Trawl Rockfish Conservation Area Management Measures

Boundary Modifications

The Non-Trawl RCA is a coastwide, contiguous area bounded by the EEZ or specific latitude and longitude coordinates that approximate depth contours along the West Coast continental shelf and around select islands off Southern California. Non-Trawl RCA boundaries are not consistent along the coast; they vary by management area (*i.e.,* the shoreward and seaward boundaries are shallower or deeper, depending on latitude). The Non-Trawl RCA prohibits almost all commercial non-tribal directed groundfish fishing with non-trawl gear, and also applies to the non-tribal directed commercial Pacific halibut fishery (see 50 CFR 300.63(e)(1)).

The seaward boundary of the Non-Trawl RCA approximates the 100 fathom (fm, 183 meters (m)) depth contour seaward of Oregon and the 100 (183 m) or 125 fm (229 m) depth contour seaward of California, depending on latitude (see Tables 2 North and South of subpart E and Tables 3 North and South to subpart F). The implementing regulations for Amendment 32, as included in this final rule, move the seaward boundary of the Non-Trawl RCA shoreward to the depth contour that approximates 75 fm (137 m) seaward of both Oregon and California, which opens up approximately 2,411 square miles (sq mi, 6,244 square kilometers (sq km)) to all non-trawl commercial groundfish sectors and the non-tribal directed commercial Pacific halibut fishery. Adjusting the Non-Trawl RCA boundary for both the commercial non-tribal directed groundfish and Pacific halibut fisheries reduces enforcement complexity and provides additional fishing opportunity. The Non-Trawl RCA boundaries in the Southern California Bight (south of 34°27′ N lat.) will not change, as the 75–100 fm (137–183 m) depth range is already open in this area.

Catch Restriction Modifications

The final rule for the 2023–24 Groundfish Harvest Specification and Management Measures action (87 FR 77007, December 16, 2022) authorized the use of two new hook-and-line gear configurations for use inside the Non-Trawl RCA by the directed open access sector as defined at § 660.11. These two new gear configurations included stationary vertical jig gear (see § 660.330(b)(3)(i)) and groundfish troll gear (see § 660.330(b)(3)(ii)). The implementing regulations for Amendment 32, as included in this final rule, allow vessels participating in the LEFG sector and vessels that use non-trawl gear under the Trawl IFQ program (*i.e.,* ''IFQ gear switchers'') to fish with these gear types under their respective

catch limits rather than under open access trip limits. In other words, LEFG vessels can fish inside the Non-Trawl RCA pursuant to their respective trip limits listed in subpart E Tables 1 North and South, and IFQ gear switchers can fish inside the Non-Trawl RCA under their quota pounds. Vessels will be required to make an appropriate declaration (specified at § 660.13(d)) that corresponds to their respective sector and the chosen gear type (*i.e.,* either stationary vertical jig gear or groundfish troll gear); only one declaration may be made on these fishing trips. On a fishing trip where any fishing occurs inside the Non-Trawl RCA, only one type of non-bottom contact gear is permitted to be carried on board, and no other fishing gear of any type can be carried on board or stowed during that trip. The vessel will be allowed to fish inside and outside the Non-Trawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) is filed with NMFS' Office of Law Enforcement (OLE). Crossover provisions at § 660.60(h)(7)(ii) will not apply for the two Non-Trawl RCA gear types (*i.e.,* non-bottom contact stationary vertical jig gear and groundfish troll gear). Access to these higher trip limits will increase fishing opportunity and provide operational flexibility for these vessels.

Gear Modifications

The two new hook-and-line gear configurations authorized as part of the 2023–24 Groundfish Harvest Specification and Management Measures action (87 FR 77007, December 16, 2022) were implemented along with a suite of gear specifications intended to minimize yelloweye rockfish bycatch and seabird interactions. For the stationary vertical jig gear, fishermen were required to have a minimum of 50 feet (15 m) between the bottom weight and the lowest fishing hook to ensure that fishing activity occured off the bottom (see § 660.330(b)(3)(i)(A)). In addition, only artificial bait was permitted; natural bait was prohibited (see § 660.330(b)(3)(i)(D)). This final rule modifies these gear restrictions to instead allow a minimum of 30 feet (9 m) between the bottom weight and the lowest fishing hook, and allow the use of natural bait. These changes are expected to increase catch of underutilized stocks, while continuing to mitigate catch of rebuilding yelloweye rockfish. No changes in gear restrictions are being made for the groundfish troll gear configuration. Fishermen must continue to have a minimum of 50 feet (15 m) between the bottom weight and the lowest fishing hook, and are still required to use artificial bait with groundfish troll gear.

Revisions to Cowcod Conservation Area Management Measures

The CCA was implemented in 2001 to reduce the bycatch of overfished cowcod (66 FR 2338, January 11, 2001), which was declared rebuilt in 2019. Within the CCA, which is comprised of the Western and Eastern CCAs, groundfish fishing by all commercial and recreational groundfish fisheries, including those that use both trawl and non-trawl gear, is prohibited. This final rule removes the CCA restrictions for all groundfish non-trawl fisheries, which opens up approximately 4,663 sq mi (12,077 sq km) to all non-trawl commercial and recreational groundfish sectors. The CCA is remaining in place for groundfish trawl fisheries, as the scope of the Council's action only considered non-trawl sectors. The purpose of this change is to provide fishing opportunity in this area given that cowcod has been declared rebuilt. Prior to the effective date of this final rule, non-trawl fishing was allowed shoreward of the 40 fm (73 m) lines around the islands and banks within the current boundaries of the CCA. With this final rule's removal of non-trawl CCA restrictions, the 40 fm (73 m) restriction is no longer in place (*i.e.,* vessels can operate anywhere in the area, subject to pre-existing area closures). Eight new closures are established in the former boundaries of the CCA for non-trawl groundfish commercial and recreational fisheries (see the next section on *Groundfish Exclusion Areas*).

The Council recommended defining new fathom lines around islands and banks that reside inside the current CCA. Specifically, the Council recommended that coordinates be defined in the regulations for the 50, 60, 75, 100, 125, and 150 fm (91 m, 110 m, 137 m, 183 m, 229 m, and 274 m respectively) lines around Santa Barbara Island, San Nicolas Island, Cortes Bank, and Tanner Bank, and the 150 fm (274 m) line around Osborn Bank and the Eastern CCA. The purpose of defining these fathom lines around the islands and banks is to provide flexible management tools to restrict fishing seaward or shoreward of the new lines as needed, which would prevent interactions with certain nearshore species and control catch of groundfish. This final rule defines these boundaries in the regulations and they will be available for use in the future should the Council wish to recommend activating depth-based closures. The Council may also recommend modifying the status of these closures via an inseason action consistent with § 660.60(c) or via a rulemaking action for groundfish fisheries management.

New Conservation Areas

Groundfish Exclusion Areas (GEAs)

Amendment 32 and its implementing regulations included in this final rule create a new type of GCA called a GEA, which is intended to mitigate potential impacts to sensitive environments from certain groundfish fishing activity. Specifically, eight GEAs are being established in this action: (1) Hidden Reef; (2) West of Santa Barbara Island; (3) Potato Bank; (4) 107/118 Bank; (5) Cherry Bank; (6) Seamount 109; (7) Northeast Bank; and (8) The 43-Fathom Spot. All of these GEAs are located in the Southern California Bight in the area where non-trawl CCA restrictions are removed. These GEAs keep approximately 428 sq mi (1,100 sq km) closed to non-trawl fishing effort. The purpose of this change is to create a type of GCA that can be used to protect sensitive areas that are separate and distinct from groundfish essential fish habitat (EFH). These GEAs prohibit all commercial and recreational groundfish fishing. Commercial fishing vessels are allowed to continually transit through GEAs provided that all gear is stowed. Recreational vessels are allowed to continually transit through GEAs provided that no gear is deployed. If fishing for non-groundfish species within the GEAs, no groundfish is allowed on board the vessel.

Yelloweye Rockfish Conservation Areas (YRCAs)

A YRCA is a type of GCA used to mitigate bycatch of yelloweye rockfish in groundfish fisheries. Given that yelloweye rockfish is still rebuilding, the Council considered establishing new YRCAs in the event that yelloweye rockfish bycatch increases with increased fishing access to the Non-Trawl RCA. Amendment 32 and this final rule establishes four new YRCAs seaward of Oregon: (1) Tillamook YRCA; (2) Newport YRCA; (3) Florence YRCA; and (4) Heceta Bank YRCA. Within the YRCAs, restrictions apply to both commercial groundfish non-trawl fisheries and the non-tribal directed commercial Pacific halibut fishery. In recommending Amendment 32, the Council proposed that only one of the YCRAs would be ''active'' at the time of implementation. The other three closures would be ''inactive'' until the Council recommends, and NMFS

implements, those closures. Thus, in this final rule, only the Heceta Bank YRCA is active. The Tillamook, Newport, and Florence YRCAs are defined and established in Federal regulations at § 660.11, but will remain inactive until the Council recommends modifying their inactive status and NMFS implements such changes via an inseason action consistent with § 660.60(c) or a future rulemaking action on groundfish fisheries. NMFS would need to modify the status of these YRCAs for the non-tribal directed commercial Pacific halibut fishery via a standard rulemaking process (*i.e.,* not an inseason action), as the current regulations on the non-tribal directed commercial halibut fishery do not include a regulatory mechanism for modifying closed areas inseason.

Essential Fish Habitat Conservation Areas (EFHCAs)

The Magnuson-Stevens Act requires that FMPs describe and identify EFH and minimize to the extent practicable, adverse effects on EFH caused by fishing. The Pacific Coast Groundfish FMP authorizes the use of EFHCAs to protect groundfish EFH from specific types of fishing activity. Federal regulations at §§ 660.75 through 660.79 provide the coordinates for all current EFHCAs off the U.S. West Coast. Prior to this final rule, there were two types of EFHCAs: bottom trawl and bottom contact. Both bottom trawl and bottom contact EFHCAs apply to all fisheries and are not limited in application to groundfish fisheries. Amendment 32 creates a new type of EFHCA that prohibits using non-trawl bottom contact gear (*e.g.,* pot/longline) for all non-tribal groundfish fisheries and the non-tribal directed commercial Pacific halibut fishery. The purpose of this new type of EFHCA is to protect groundfish EFH that will be newly exposed to non-trawl bottom contact gear from moving the seaward boundary of the Non-Trawl RCA to 75 fm (137 m) seaward of Oregon. Specifically, this final rule establishes five new EFHCAs: (1) Nehalem Bank East; (2) Bandon High Spot East; (3) Arago Reef West; (4) Garibaldi Reef North; and (5) Garibaldi Reef South. All of these new EFHCAs overlap partially or entirely with existing bottom trawl EFHCAs (*i.e.,* bottom trawl gear is already prohibited in these areas), which is why the specified gear prohibition only includes non-trawl bottom contact gear. Taking, retaining, or possessing (except for the purpose of continuous transit) groundfish or Pacific halibut in these new EFCHAs is prohibited.

Block Area Closures (BACs)

The Pacific Coast Groundfish FMP and its implementing regulations authorize the use of BACs as a routine management measure to control bycatch of groundfish in trawl fisheries. BACs, defined at § 660.11, are size variable spatial closures in the EEZ bounded by latitude lines or the EEZ, with depth contour approximations defined at §§ 660.71 through 660.74 ((10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1280 m)). Amendment 28 to the FMP (84 FR 63966, November 19, 2019) first established BACs as a management tool to control bycatch of groundfish. The salmon bycatch minimization measures final rule (86 FR 10857, February 23, 2021) expanded BACs as a tool to minimize salmon bycatch. Amendment 32 and its implementing regulations included in this final rule expand the use of BACs for groundfish non-trawl fisheries. The purpose of this change is to create a mechanism to control bycatch of groundfish and bycatch of protected or prohibited species from non-trawl fisheries given the new flexibilities (*e.g.,* newly opened fishing grounds). Thus, under this final rule, BACs can be implemented in the EEZ coastwide. BACs also could be implemented within tribal Usual and Accustomed (U&A) fishing areas but would only apply to non-tribal vessels.

This final rule does not implement specific individual BACs. This final rule allows NMFS to close or reopen BACs preseason or inseason. This approach is consistent with existing routine management measures in framework amendments to the FMP that have already been implemented and incorporated into the regulations. Most trip, bag, and size limits, and some GCA closures in the groundfish fishery, including Bycatch Reduction Areas and BACs, have been designated routine management measures in the Pacific Coast Groundfish FMP and in § 660.60(c). The Council can recommend to NMFS implementation or modification of these routine management measures through an expedited process involving a single Council meeting. Inseason changes are announced in the **Federal Register** pursuant to the requirements of the Administrative Procedure Act. If good cause exists under the Administrative Procedure Act to waive notice and comment, a single **Federal Register** notification will announce routine inseason BACs recommended by the Council and implemented by NMFS.

When deciding whether to recommend BACs for NMFS to implement, consistent with the Pacific Coast Groundfish FMP, the Council considers environmental impacts, economic impacts, and public comments that are received via the Council process. Depending on the circumstances, NMFS may close areas for a defined period of time, for example, a few months or the remainder of the fishing year, or NMFS may maintain a closure for an indefinite period of time, for example, until reopened by a subsequent action. NMFS may close one or more BACs and the size of the BACs can vary. A **Federal Register** notification will announce the geographic boundaries of one or more BACs, the effective dates, applicable gear/fishery restrictions, as well as the purpose and rationale. NMFS would also disseminate this information on BACs through public notices and by posting on the West Coast Region website (see **ADDRESSES** for electronic access information).

Expected Effects of This Action

The Council prepared a detailed Analysis (see Electronic Access section of **ADDRESSES**) that analyzed the effects of Amendment 32 on various resources. A brief summary of expected effects from the Analysis was provided in the proposed rule (88 FR 59838, August 30, 2023) and is not repeated here.

Administrative Regulatory Changes

In addition to the actions described above, NMFS is also implementing three minor regulatory changes in this final rule. These changes, which are necessary to improve clarity of existing regulations, are administrative in nature.

Groundfish Conservation Area Nomenclature Corrections

NMFS is universally correcting all instances of ''Cordell Banks'' to its correct name of ''Cordell Bank.'' NMFS is modifying the description of the Cordell Bank GCA at § 660.70(q) to clarify that fishing is not permitted ''within'' its boundaries as opposed to ''around'' its boundaries, as currently specified in the regulations. The purpose of this change is to clarify the intended meaning of these regulations for fishermen and to support enforcement efforts, but this change does not constitute a material change to the GCA.

Bait Definitions

NMFS is adding regulatory definitions for artificial lure, bait (both natural and artificial), and weighted gear under § 660.11. As amended by this final rule, the regulations allow for the use of

natural bait on non-bottom contact stationary vertical jig gear in the Non-Trawl RCA, and continue to prohibit its use on groundfish troll gear in the Non-Trawl RCA. However, natural bait is not defined in the regulations. The purpose of adding these definitions (which are based on common usage) is to clarify the types of bait that are permitted for use within the Non-Trawl RCA. This will aid fishermen and support enforcement efforts.

Vessel Monitoring System Exemptions

Vessels participating in the limited entry groundfish fishery, open access vessels using non-groundfish trawl gear (vessels fishing for ridgeback prawn, California halibut, and sea cucumber trawl), and any vessels that use open access gear targeting groundfish or that have groundfish bycatch (salmon troll, prawn trap, Dungeness crab, halibut longline, California halibut line gear, and sheephead trap), are required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for a NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE prior to fishing. These units automatically record a vessel's position (*i.e.,* the vessel's geographic location in latitude and longitude coordinates), and transmit those coordinates to a communications service provider.

Exemptions from the VMS requirement for specific reasons are allowed (50 CFR 660.14(d)(4)). VMS users must follow the requirements at § 660.14(d)(4)(vi) to submit exemption reports. Existing exemptions include a haul out exemption, an outside areas exemption, a permit exemption, and a long-term departure exemption. This final rule is creating two new exemptions: one for maintenance that does not require a haul out, and one for sale of a vessel. Like the existing haul out exemption, the new maintenance exemption allows VMS units to temporarily be inoperable and allows transmissions to be discontinued while work is being done on the vessel. However, the new maintenance exemption is not limited to maintenance that is conducted while a vessel is hauled out.

The new exemption for sale of a vessel would be an extension of the existing long-term departure exemption. This new exemption for sale of a vessel is being implemented as a response to situations in which new owners purchase vessels and discontinue use of VMS units used by the previous owners. If the previous owners do not submit a long-term departure exemption prior to the sale, the requirement for the VMS units to operate continues to exist on the sold vessels, even when the new owners do not participate in an activity requiring VMS.

Both of these new exemptions will create flexibilities in the vessel owners' VMS requirements when vessels are not participating in an activity requiring VMS. If these new exemptions were not added to the regulations, fishermen would continue to be in violation of VMS requirements while their vessels undergo long-term maintenance or when prior owners of newly purchased vessels did not submit a long-term departure exemption prior to selling the vessel.

Public Comments

The notice of availability for Amendment 32 was published on August 2, 2023 (88 FR 50830), and was open for comment until October 1, 2023. NMFS received a total of four public comments on the notice of availability. The proposed rule for Amendment 32 was published on August 30, 2023 (88 FR 59838), and was open for public comment until September 29, 2023. NMFS received a total of five public comments on the proposed rule. Two commenters provided the same comments for both the notice of availability and for the proposed rule. A summary of public comments submitted for both the notice of availability and the proposed rule and NMFS' responses to all of those comments are provided below.

Comment 1: An anonymous individual submitted a comment on the notice of availability requesting that NMFS ensure that the new GEAs being implemented in the Southern California Bight allow fishing for non-groundfish species.

Response: The new GEAs will only prohibit groundfish fishing. If a vessel is fishing for non-groundfish species within the GEAs, no groundfish is allowed on board the vessel. This information is in the preamble to the proposed rule (88 FR 59838), the Analysis (see **ADDRESSES**), and the preamble to this final rule.

Comment 2: A private individual submitted a comment on the proposed rule, questioning why boundary changes to the Non-Trawl RCA are only being made seaward of Oregon and California, and not off Washington.

Response: During the development of this action, the Council contemplated changes to the Non-Trawl RCA boundary seaward of Washington (see Agenda Item E.6.a Supplemental WDFW Report 1 of the November 2021 briefing book at *https://www.pcouncil.org*). However, the alternative that included changes off Washington was withdrawn for possible future consideration due to anticipated overlap and resulting conflicts between tribal, recreational, and commercial fisheries, as well as concern over increased yelloweye bycatch and habitat impacts (see Agenda Item G.6.a WDFW Report 1 in the September 2022 briefing book at *https://www.pcouncil.org*). Therefore, changes to the Non-Trawl RCA off Washington were not included in the recommendation by the Council for this action and are not being included in this final rule.

Comment 3: A private individual submitted a comment on the proposed rule, expressing concern over the potential of increased drift gillnetting in the newly opened fishing areas.

Response: This action opens up fishing areas for groundfish non-trawl fisheries and the non-tribal directed commercial Pacific halibut fishery only. Neither of these fisheries utilize drift gillnets. This rule does not open any fishing area to drift gillnetting.

Comment 4: A professional mariner/private citizen from Oregon submitted a comment on the proposed rule expressing concern that this action is not placing enough emphasis on protection of fish species. This same commenter also expressed concern that the VMS haul out exemption will yield enforcement and accountability challenges.

Response: The Magnuson-Stevens Act dictates that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each U.S. fishery. Yelloweye rockfish is the only fish species currently under a rebuilding plan. To mitigate potential yelloweye rockfish impacts off Oregon, the Council recommended, and NMFS is implementing, three new YRCAs for potential future use if yelloweye rockfish bycatch becomes an issue, and one new YRCA that will be active at the time of implementation (*i.e.,* the Heceta Bank YRCA).

With regard to the concern over the VMS haul out exemption, NOAA's OLE supports the additional clarification of exemptions to allow fishery participants to have flexibility when needed to conduct non-haul out maintenance on a vessel involving a disruption to power, thus impacting VMS transmissions. Sufficient documentation of maintenance activities is required in the submission of the maintenance exemption report. In addition, adequate safeguards are in place to ensure vessels with a maintenance exemption do not

resume fishing before VMS transmissions resume.

Comment 5: A fisherman from Crescent City, California, submitted a comment on the notice of availability, expressing concern over the closing of the nearshore rockfish fishery in Northern California due to quillback rockfish and its negative impact to the local economy.

Response: This comment is outside the scope of this action, as this action does not implement any changes to quillback rockfish catch limits or closures.

Comment 6: The environmental nongovernmental organization (NGO) Oceana submitted a comment letter on both the notice of availability and proposed rule requesting that NMFS disapprove the proposed modifications to Non-Trawl RCA management measures seaward of California. Oceana expressed concern over adverse effects of moving this boundary to: (1) EFH, namely coral and sponges; (2) yelloweye rockfish because it is still rebuilding; and (3) canary rockfish, based on a claim that new science indicates that canary rockfish has not rebuilt. Oceana supports moving the Non-Trawl RCA boundary to 75 fm (137 m) off Oregon because the implementing regulations for Amendment 32 provide additional EFH and yelloweye rockfish fishery closures in the area being opened to fishing. Based on the fact that these measures are being implemented for Oregon and not for California, Oceana claims that Amendment 32 fails to minimize potential fishing impacts to EFH and rebuilding rockfish stocks off California. Oceana supports all other aspects of Amendment 32.

Response: NMFS thanks Oceana for its expressed support for aspects of Amendment 32. Below is the NMFS response to the Oceana concerns.

By moving the seaward boundary of the Non-Trawl RCA to 75 fm (137 m) seaward of Oregon and California, small portions of 23 EFHCAs (17 for California, 6 for Oregon) that currently prohibit bottom trawling will be newly exposed to bottom contact non-trawl gear, such as pot and longline gear. Although the Non-Trawl RCA was implemented to protect overfished groundfish stocks, these 23 bottom trawl EFCHAs have received ancillary protection from non-trawl gear due to their overlap with the Non-Trawl RCA. This final rule minimizes, to the extent practicable, adverse effects to EFH from fishing, as described below.

During the development of this action, the Council extensively reviewed all 23 EFCHAs and whether or not the small portions that would be exposed from moving the Non-Trawl RCA boundary warranted immediate protection in advance of the Council's next EFH review process. For example, the Nehalem Bank EFCHA includes area that has been a long-term study site for the Oregon Department of Fish and Wildlife (ODFW) since 2007 for evaluating the before and after effects of bottom trawling on macroinvertebrates. Similarly, the Bandon High Spot EFHCA includes Coquille Bank, which is also an active research site. Disturbance to these areas by new bottom contact gear activity inside the EFHCAs could compromise the research being conducted and therefore warranted a closure to bottom contact gear ahead of the upcoming routine EFH review, which is set to begin in 2025. For the remaining EFHCAs off of Oregon, including Garibaldi Reef North, Garibaldi Reef South, and Arago Reef, the Council chose to add additional EFH protections due to a review of recent 2019 ODFW data indicating a high amount of rocky reef habitat.

Similar reasons were not identified for the EFHCAs seaward of California. Of the 17 bottom trawl EFHCAs off California, only 4 have portions greater than 5 sq mi (13 sq km) that will be exposed by this action. This final rule converts 113.5 sq mi (294 sq mi) of the almost 200 sq mi (518 sq km) of area currently closed to all bottom trawl EFHCAs, to be closed to all groundfish bottom contact gear. The Analysis describes the current understanding of potential pot gear and longline gear impacts on hard substrates. Generally, fishermen avoid high relief areas due to concerns of gear loss or gear damage, however, when there are interactions, the best available information suggests that impacts are minor and recovery time is less than 6 months (see Chapter 7 of the EA). While the Analysis acknowledges that adverse impacts to EFH may occur, the Analysis concluded there would be no significant adverse impacts from Amendment 32 on habitat. Ultimately, the Council decided to consider whether additional protections are needed for the exposed bottom trawl EFHCAs seaward of California during the next routine groundfish EFH review, which is set to begin in 2025 (see Council transcript, page 108–109 from the September 2022 meeting at *https://www.pcouncil.org*) when updated habitat data is available to fully inform what protections are needed. In the interim and prior to any future EFH protections that may result from the Council's next EFH review, the individual areas being exposed are small and comprise a total of 77.9 sq mi (202 sq km); the Analysis concluded that significant impacts for the purpose of NEPA are not anticipated in these areas. Therefore, NMFS has determined that opening of the Non-Trawl RCA off California does minimize adverse impacts on habitat and opening of this area to non-trawl fishing is supported by the best available information.

With regard to yelloweye rockfish, the Council is opening the Non-Trawl RCA via a step-wise approach, with one of the primary reasons being to continue adequate protection for yelloweye rockfish, which is rebuilding ahead of the time frame anticipated in the rebuilding plan. As Oceana points out, one new YRCA (Heceta Bank) is being implemented to protect important yelloweye rockfish habitat off Oregon. In addition, three new YRCAs are being defined in regulation because the Council identified them as flexible inseason tools that could be activated if yelloweye bycatch becomes a concern; these new YRCAs were selected based on a review of the Yelloweye Habitat Suitability Model. The Council did not identify any areas of California that appear necessary for a YRCA, and therefore none were recommended to NMFS.

With regard to canary rockfish, Oceana cites a recent Scientific and Statistical Committee (SSC) report (see Agenda Item G.2.a Supplemental SSC Report 1 September 2023 at *https://www.pcouncil.org*) that includes a review of the current 2023 stock assessment. The new model's hindcast estimates that the stock may have still been below the management target when it was declared rebuilt in 2015. However, the stock was declared rebuilt at the time based on the best scientific information available. The new 2023 stock assessment indicates that the stock is currently at 35.1 percent of unfished biomass, which is in the precautionary zone and still above the minimum stock size threshold of 25 percent unfished biomass (*i.e.,* not overfished). The SSC adopted the 2023 stock assessment as the best scientific information available for informing management. The Council and NMFS will continue to track the status of canary rockfish, and NMFS can take a diversity of actions to reduce catch of canary rockfish if necessary.

With regard to impacts to coral and sponge habitats, Oceana expressed concern over the Office of National Marine Sanctuaries' (ONMS) request of the Council to implement fishery closures for coral research and restoration sites that require long-term closure from bottom contact gear types, and how the implementing regulations for Amendment 32 will expose areas

that may be used for these purposes. At the June 2023 Council meeting, ONMS requested that the Council consider a process starting in September 2023 to meet the sanctuaries needs for deep-sea coral research and restoration (see Agenda Item C.8.a, Supplemental ONMS report 1, June 2023). The Council began formal consideration of this issue at its September 2023 meeting (see Agenda Item H.2, September 2023) and has scheduled consideration of closing areas suitable for coral research and restoration (see Agenda Item H.10, Supplemental Attachment 4: Draft Proposed Council Meeting Agenda, September 2023 at *https://www.pcouncil.org*). At their September 2023 meeting, the Council identified three areas that will be analyzed for coral restoration and research. The Council is expected to select a preliminary preferred alternative for sites to close for coral research and restoration at their March 2024 meeting.

Comment 7: The environmental NGO the Center for Biological Diversity (CBD) submitted a comment letter on both the notice of availability and proposed rule opposing the implementing regulations for Amendment 32 and the analysis in the EA. As described below, CBD expressed concern over fishing impacts from pot gear to humpback whales listed under the Endangered Species Act (ESA), fishing impacts from fixed gear on ESA-listed leatherback sea turtles, and fishing impacts from hook-and-line gear on ESA-listed short-tailed albatross. CBD also expressed concern over adverse impacts from pot and longline gear on deep-sea coral and sponge habitats.

Response: In its letter, CBD asserts that NMFS should not open the Non-Trawl RCA as proposed because NMFS has failed to assess the impacts on corals and sponges. CBD asserts that the impacts from opening this area will cause a significant impact on corals and sponges and therefore an Environmental Impact Statement is needed. However, in support of this assertion, CBD relies on general information about coral and sponge life history and the impact of fishing on those species and does not provide any basis for why Amendment 32 specifically causes a significant impact on corals and sponges. As indicated in the Purpose and Need for Amendment 32 (described in the Analysis), habitat protection was part of the consideration of the Council (''The purpose of the proposed actions are to provide additional access in some areas that are currently closed to groundfish fishing inside the Non-Trawl Rockfish Conservation Area (RCA) and Cowcod Conservation Area (CCA). In doing so, measures were developed to address adverse effects on designated Essential Fish Habitat (EFH) and sensitive benthic habitats exposed to fishing activity under the proposed actions and mitigate bycatch of groundfish and protected and prohibited species.''). In the development of the action, the Council and NMFS considered impacts on habitat from opening the Non-Trawl RCA, including EFH, corals and sponges, including as documented in the EA for this action. In addition, CBD has failed to acknowledge that the Council recommended, and NMFS is implementing, tools specifically designed to minimize the impact of the action on habitat, including corals. This includes implementing GEAs off California and EFHCAs that prohibit non-trawl bottom contact gear (*e.g.,* pot/longline) off Oregon, efforts that were developed with significant public input including from environmental NGOs. Further, as stated above, the Council announced its intent to evaluate exposed EFH off California during the Council's routine EFH review process, which starts in 2025.

CBD incorrectly asserts that NMFS has an obligation under the National Environmental Policy Act (NEPA) to quantify the impacts on coral habitat through ''seabed mapping at a meter's spatial resolution''. However, consistent with its NEPA obligations, NMFS used the best available information to determine if there is a significant impact of an action—seabed mapping at a meter's spatial resolution across the Non-Trawl RCA, spanning waters off California and Oregon, does not currently exist. NMFS and the Council conducted extensive analysis, through a rigorous public process, on the habitat impacts of opening parts of the Non-Trawl RCA, including the additional habitat mitigation measures mentioned above (*i.e.,* GEAs and EFCHAs). The Analysis discloses the potential for impacts of the proposed action on habitat, including identifying those areas that are proposed to be open to fishing where there are higher densities of corals and sponges and identifying the potential adverse impacts of fishing gear on that habitat. In addition to the maps presented in the Analysis, this information was available via a Public Map Viewer, which allowed users to zoom in on any specific area being opened to fishing. The Public Map Viewer includes a layer that shows deep-sea coral and sponge observations, a layer that shows a variety of seafloor substrate types (*i.e.,* hard bottom, soft bottom, or mixed), and a layer that shows habitat areas of particular concern. The Analysis identified that there was no expected significant impact of the action on habitat. NMFS used the best available information to make a Finding of No Significant Impact and thereby satisfied its NEPA obligations.

In its letter, CBD alleges that the proposed rule would remove a seabird mitigation measure for two gear types which ''may affect'' ESA-listed short-tailed albatross, and therefore NMFS must consult with the U.S. Fish and Wildlife Service (USFWS). Regarding ESA consultation, the USFWS issued a Biological Opinion in 2017 concluding that the continued operation of the Pacific Coast Groundfish Fishery was not likely to jeopardize the continued existence of short-tailed albatross (FWS reference: 01EOFW00–2017–F–0316) as well as other ESA-listed species. Regarding the removal of seabird mitigation measures, CBD misunderstood the proposed action. Currently, there is a prohibition on the use of natural bait on both stationary vertical jig gear and groundfish troll gear (*i.e.,* the only two gear types currently allowed for use inside the Non-Trawl RCA). CBD has asserted that the proposed rule would remove this prohibition for both gear types. This is incorrect; the implementing regulations for Amendment 32 will only allow natural bait on stationary vertical jig gear. As stated in the Analysis, vertical lines on stationary vertical jig gear are closely tended to the vessel and do not float at the surface and thus significant impacts to seabirds are not expected. NMFS discussed allowing natural bait on this gear type with the USFWS during the development of Amendment 32, and the USFWS concurred that allowing natural bait on the stationary vertical jig gear does not necessitate re-initiation under the ESA. The prohibition on using natural bait on groundfish troll gear inside the Non-trawl RCA will remain in place. NMFS notes that non-bottom contact stationary vertical jig gear has been tested inside the Non-Trawl RCA since 2013 under an exempted fishing permit (EFP) project; artificial bait was required in the EFP because the nature and performance of the gear was not initially known. After 9 years of EFP testing with 100 percent observer coverage, there have been zero documented seabird interactions. Because of the way in which the gear is fished and the reduced exposure of baited hooks and proximity to humans, NMFS does not anticipate risk to seabirds from the use of natural bait on stationary vertical jig gear. Therefore, NMFS determined that there was no

significant impact of the proposed action on seabirds. NMFS has also determined that re-initiation of ESA consultation is not warranted, as Amendment 32 and its implementing regulations will not affect endangered and threatened species or critical habitat in any manner or to an extent not considered in the 2017 Biological Opinion.

CBD asserts that NMFS should re-initiate ESA consultation for the impact of this action on ESA-listed leatherback sea turtles and their critical habitat because the proposed rule would pose a risk of gear entanglement not contemplated in the 2012 Biological Opinion (NWR–2012–876). CBD supports this claim by pointing out that NMFS has implemented a fishery closure to protect leatherback sea turtles in the drift gillnet fishery. NMFS notes that the drift gillnet fishery is a different fishery managed under the Highly Migratory Species FMP, and that the Analysis prepared for this action contemplates potential impacts from groundfish non-trawl fisheries under the Pacific Coast Groundfish FMP. As described in the Analysis and the 2012 Biological Opinion, there has not been a documented interaction with a leatherback sea turtle in the groundfish fishery since 2008. Additionally, there is no evidence to suggest that a geographic expansion of fishery effort (not an increase in fishing effort) into the area being opened significantly increases the risk of entanglement to leatherback sea turtles. As a result of this action, the density of non-trawl gear in the EEZ both shoreward and seaward of the Non-Trawl RCA will likely lessen, as some vessels will likely shift some of their effort to the newly opened depth bin. This will increase the spatial distribution of fixed gear, but will not change the overall amount of effort nor will it concentrate effort in a particular area. In addition, there is no evidence to suggest that vessels fishing in 75–100 fm or 75–125 fm (137–183 m or 137–229 m) would create more potential for sea turtle interactions compared to fishing in 100–125 fm (183–229 m) or greater, depths at which fishing is already open. NMFS is not aware of any information, and CBD has failed to provide any supporting information, that indicates that the action presents a notable increase in potential exposure to sea turtles. Therefore, in the Finding of No Significant Impact, NMFS concluded that Amendment 32 will not significantly impact ESA-listed sea turtles. NMFS also has determined there are no anticipated impacts on ESA-listed leatherback sea turtles beyond those impacts already considered in the 2012 Biological Opinion and therefore re-initiation is not warranted.

CBD asserts that NMFS should re-initiate ESA consultation for the impact of this action on ESA-listed humpback whales and their critical habitat in part because the proposed rule would pose a risk of entanglement not contemplated under the 2020 Biological Opinion. As stated in the preamble to the proposed rule, NMFS evaluated the effects of the groundfish fishery on ESA-listed humpback whales and their critical habitat in the 2020 Biological Opinion for the Pacific Coast Groundfish Fishery (WCRO–2018–01378). Although there will likely be a geographic effort shift from the sablefish pot fishery as well as other non-trawl fisheries into the newly opened area, the Council and NMFS do not anticipate an overall increase in the number of participants in any non-trawl fishery sector. As explained in the Analysis, it is the amount of gear in the water rather than the amount of area or habitat designation that affects potential entanglement risk for whales. This action does not change the overall amount of sablefish that can be caught by the fishery, which was analyzed as part of the 2023–2024 Biennial Harvest Specifications and Management Measures EA (available at *https://www.fisheries.noaa.gov/west-coast/laws-and-policies/groundfish-actions-nepa-documents*). That EA describes the anticipated impacts and potential for adverse impacts of fixed gear in the groundfish fishery on ESA-listed humpback whales from the harvest levels implemented in the 2023–2024 harvest specifications. Similarly, the 2020 Biological Opinion evaluates the effects of the fixed gear fishery on ESA-listed humpback whales and acknowledges that there is risk from entanglements, but not at a level which jeopardizes the ESA-listed species or adversely modifies critical habitat. In the Analysis for this action, and in the determination of whether re-initiation of the 2020 Biological Opinion was required, NMFS evaluated the anticipated changes from moving the boundary of the Non-Trawl RCA. As a result of this action, the density of pot gear and other non-trawl gear in the EEZ both shoreward and seaward of the Non-Trawl RCA will likely lessen, as some vessels will likely shift some of their effort to the newly opened depth bin. This will increase the spatial distribution of pot gear, but will not change the overall amount of effort nor will it concentrate effort in a particular area. In addition, there is no evidence to suggest that vessels fishing in 75–100 fm or 75–125 fm (137–183 m or 137–229 m) would create more potential for whale interactions compared to fishing in 100–125 fm (183–229 m) or greater, depths at which fishing is already open. NMFS is not aware of any information, and CBD has failed to provide any supporting information beyond generalizations about humpback whale critical habitat, that indicates that the action presents a notable increase in potential exposure to migrating humpback whales nor that the area includes known or significant foraging or breeding area.

Therefore, in the Finding of No Significant Impact, NMFS concluded that Amendment 32 will not significantly impact ESA-listed humpback whales. NMFS also concluded there are no anticipated impacts to the Mexican Distinct Population Segment (DPS) or the Central American DPS of humpback whales from Amendment 32 beyond those impacts already considered in the 2020 Biological Opinion and therefore re-initiation is not warranted.

NMFS acknowledges CBD's comment that the draft Analysis does not mention the Central American DPS of humpback whale. The Analysis intentionally discusses potential impacts to humpback whales in a generic sense without discussion of the separate subpopulations, however Figure 27 and Figure 28 mistakenly omit the Central American DPS in the legends. NMFS has corrected this in the Final Analysis.

CBD has alleged that NMFS cannot rely on the 2021 Marine Mammal Protection Act (MMPA) 101(a)(5)(E) permit that was issued for the sablefish pot gear fishery. However, this assertion incorrectly states the status of that permit. On July 26, 2023, Judge James Donato in the Northern District of California signed an order approving a stipulated settlement agreement between NMFS and CBD resolving claims in the matter of *Center for Biological Diversity* v. *Raimondo, et al.,* 3:22–cv–117 (N.D. Cal.). Under that agreement, the parties agreed that ''The National Marine Fisheries Service's Marine Mammal Protection Act permit regarding the sablefish pot gear fishery is hereby remanded to the agency for further consideration without vacatur.'' Therefore, the permit is still operable while NMFS addresses other stipulations in the settlement agreement.

Finally, CBD claims that NMFS failed to acknowledge a 2021 humpback whale entanglement in the hook-and-line fishery and that this entanglement triggers re-initiation of the 2020 Biological Opinion. The Council's ESA

Workgroup Report from the June 2023 Council meeting included information on the 2021 entanglement (see Agenda Item H.6.a GESW Report 1 June 2023 at *https://www.pcouncil.org*); this report was referenced in the Analysis. Because this is new information, NMFS' investigation on this entanglement is ongoing. The 2020 Biological Opinion evaluates the ongoing operation of the entire Pacific Coast groundfish fishery, all gear types and sectors. NMFS expects this entanglement will be incorporated into a future stock assessment report for humpback whales and will continue to be evaluated relative to whether this information would lead to a re-initiation of the 2020 Biological Opinion.

Changes From the Proposed Rule

NMFS has identified minor technical changes that must be made to the proposed rule's regulatory text amending the regulations to implement Amendment 32. These technical changes reflect inadvertent omissions in the proposed rule's regulatory text. This final rule includes the following technical changes in the regulatory text, as described below.

First, this final rule adds a generic definition for GEAs at § 660.11, as opposed to only describing GEAs in the regulatory sections that describe sector-specific management measures. The purpose of adding this generic definition is to clarify the scope of options for using GEAs. For example, GEAs do not always need to prohibit all groundfish sectors from fishing in a certain area or prohibit the use of all gear types from a certain area; they can prohibit specific fishing sectors or specific gear types. This is consistent with the existing regulations for how BACs may be implemented to control bycatch of groundfish.

Second, this final rule modifies the regulations at § 300.63(f)(1), § 660.11, § 660.60(c)(3)(i), § 660.230(d)(14) and § 660.330(d)(15) to clarify that the shoreward boundary of the EEZ (*i.e.,* the State/Federal 3-nautical mile line) can be used as a boundary for the Non-Trawl RCA. NMFS inadvertently omitted this change in the proposed rule. Adding this change will make the use of the Non-Trawl RCA consistent with the use of BACs, whose east and west boundaries may also be defined by EEZ boundaries, and are not necessarily restricted to boundary lines that approximate depth contours.

Third, this final rule includes changes that provide additional clarification on the requirements for using the non-bottom contact gear types described at § 660.330(b)(3). These requirements are necessary for adequate enforcement of proper usage of these gear types. Therefore, this final rule amends § 660.13(d)(4)(iv) to clarify that only one declaration for legal non-bottom contact hook-and-line gear may be made per fishing trip (*i.e.,* either gear code 36 at § 660.(d)(4)(iv)(A)(*28*) or code 37 at § 660.(d)(4)(iv)(A)(*29*)). This change is consistent with the requirement in current regulations at § 660.330(b)(3) specifying that only one legal non-bottom contact gear type may be carried on board at a time. Therefore, to avoid potential confusion among fishermen, this final rule corrects the inadvertent omission in the proposed rule of an amendment to § 660.13(d)(4)(iv) to similarly specify that only one declaration can be made. Adding this change is consistent with the Council and NMFS's intent for these gear provisions.

Fourth, this final rule corrects an inaccurate citation (for a table) in the regulations at § 660.330(d)(14), which describes the regulations for open access fisheries around the Farallon Islands. The proposed rule's reference to Table 2 South should, instead, be a reference Table 3 South, as this provision is in the open access portion of the regulations, whereas Table 2 South is in the LEFG portion of the regulations.

No changes were made to the final rule in response to public comments on the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act and Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c), the NMFS Assistant Administrator has determined that this final rule to implement Amendment 32 is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law. For rulemaking efficiency, NMFS is also implementing minor administrative regulatory changes. These changes include corrections to all references to ''Cordell Bank,'' and, in the description of the Cordell Bank GCA at § 660.70(q), clarifying that fishing is not permitted ''within'' its boundaries as opposed to ''around'' its boundaries; adding new regulatory definitions for different types of fishing bait, and adding new exemptions to the Vessel Monitoring System reporting requirements.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

Information Collection Requirements

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule will revise the existing requirements under OMB control # 0648–0573, ''VMS and Declarations,'' by adding and modifying declaration codes for the purpose of monitoring and enforcing the new provisions in the Non-Trawl RCA for limited fixed gear vessels and IFQ gear switchers. These new declaration codes are not anticipated to alter the number of respondents, anticipated responses, burden hours, or burden costs, as the affected vessels are already required to declare their fishing activities. The new declaration codes will allow NOAA's OLE to track those vessels that are declaring to fish inside the Non-Trawl RCA and identify what catch limits they should adhere to. Public reporting burden for submitting a declaration report is estimated to average 4 minutes per individual report, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at *www.reginfo.gov/public/do/PRAMain.*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

50 CFR Part 300

Fish, Fisheries, Fishing, Fishing vessels.

50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 17, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR parts 300 and 660 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

■ 1. The Authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773–773k.

■ 2. Amend § 300.63 by revising paragraph (f) to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

* * * * *

(f) *Area 2A Non-Treaty Commercial Fishery Closed Areas*—(1) *Nontrawl Rockfish Conservation Area (RCA).* Non-tribal commercial vessels operating in the directed commercial fishery for halibut in Area 2A are prohibited from fishing within a groundfish closed area known as the nontrawl RCA. Nontrawl RCA boundaries are defined by specific latitude and longitude coordinates that approximate depth contours, or the boundaries of the EEZ. Between the U.S./Canada border and 46°16′ N lat., the shoreward boundary of the nontrawl RCA is the EEZ. Between 46°16′ N lat. and 40°10′ N lat., the shoreward boundary of the nontrawl RCA is a line approximating the 30-fm (55-m) depth contour, or the shoreward boundary of the EEZ, whichever is more seaward. Coordinates for the 30-fm (55-m) boundary are listed at 50 CFR 660.71(e). Between the U.S./Canada border and 46°16′ N lat., the seaward boundary of the nontrawl RCA is a line approximating the 100-fm (183-m) depth contour. Coordinates for the 100-fm (183-m) boundary are listed at 50 CFR 660.73(a). Between 46°16′ N lat. and 40°10′ N lat., the seaward boundary of the nontrawl RCA is a line approximating the 75-fm (137-m) depth contour. Coordinates for the 75-fm (137-m) boundary are listed at 50 CFR 660.72(j).

(2) *North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA).* YRCAs are defined in the groundfish regulations at 50 CFR 660.70. Vessels that incidentally catch halibut while fishing in the sablefish primary fishery are required to follow area closures and gear restrictions defined in the groundfish regulations. It is unlawful to take and retain, possess (except for the purpose of continuous transit) or land halibut with limited entry longline gear within the North Coast Commercial Yelloweye Rockfish Conservation Area. All fishing gear for targeting halibut must be stowed while transiting through the North Coast Commercial YRCA when the closure is in effect.

(3) *Salmon Troll YRCA.* YRCAs are defined in the groundfish regulations at 50 CFR 660.70 and in the salmon regulations at 50 CFR 660.405(c). Non-tribal commercial vessels that incidentally catch halibut while fishing in the salmon troll fishery are prohibited from fishing within a closed area known as the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Salmon Troll YRCA. All fishing gear for targeting halibut must be stowed while transiting through the Salmon Troll YRCA when the closure is in effect.

(4) *Tillamook YRCA.* YRCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Tillamook YRCA. All fishing gear for targeting halibut must be stowed while transiting through the Tillamook YRCA when the closure is in effect. The closure is not in effect at this time.

(5) *Newport YRCA.* YRCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, or possess (except for the purpose of continuous transit) or land halibut within the Newport YRCA. All fishing gear for targeting halibut must be stowed while transiting through the Newport YRCA when the closure is in effect. The closure is not in effect at this time.

(6) *Florence YRCA.* YRCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Florence YRCA. All fishing gear for targeting halibut must be stowed while transiting through the Florence YRCA when the closure is in effect. The closure is not in effect at this time.

(7) *Heceta Bank YRCA.* YRCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Heceta Bank YRCA. All fishing gear for targeting halibut must be stowed while transiting through the Heceta Bank YRCA when the closure is in effect.

(8) *Nehalem Bank East Essential Fish Habitat Conservation Area (EFHCA).* EFHCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Nehalem Bank East EFHCA. All fishing gear for targeting halibut must be stowed while transiting through the Nehalem Bank East EFCHA.

(9) *Garibaldi Reef North EFHCA.* EFHCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Garibaldi Reef North EFHCA. All fishing gear for targeting halibut must be stowed while transiting through the Garibaldi Reef North EFCHA.

(10) *Garibaldi Reef South EFHCA.* EFHCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Garibaldi Reef South EFHCA. All fishing gear for targeting halibut must be stowed while transiting through the Garibaldi Reef South EFCHA.

(11) *Arago Reef West EFHCA.* EFHCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A take and retain, possess (except for the purpose of

continuous transit) or land halibut within the Arago Reef EFHCA. All fishing gear for targeting halibut must be stowed while transiting through the Arago Reef West EFCHA.

(12) *Bandon High Spot East EFHCA.* EFHCAs are defined in the groundfish regulations at 50 CFR 660.70. It is unlawful for non-tribal commercial vessels operating in the directed halibut fishery in Area 2A to take and retain, possess (except for the purpose of continuous transit) or land halibut within the Bandon High Spot East EFHCA. All fishing gear for targeting halibut must be stowed while transiting through the Bandon High Spot East EFCHA.

PART 660—FISHERIES OFF WEST COAST STATES

■ 3. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

Subpart C [Amended]

■ 4. In subpart C of part 660, revise all references to ''Cordell Banks'' to read ''Cordell Bank''.

■ 5. Amend § 660.11 by:
■ a. Adding in alphabetical order, the definitions for ''Artificial lure'' and ''Bait'';
■ b. In the definition for ''Conservation area(s)'':
■ i. Revising paragraph (1) introductory text and paragraph (1)(i);
■ ii. Redesignating paragraphs (1)(vi) and (1)(vii) as (1)(vii) and (1)(viii);
■ iii. Adding new paragraph (1)(vi); and
■ c. Adding in alphabetical order the definition for ''Weighted gear''.

The additions and revisions read as follows:

§ 660.11 General definitions.

* * * * *

Artificial lure means any manufactured or man-made non-scented/non-flavored (regardless if scent or flavor is added in the manufacturing process or added afterwards) device complete with hooks, intended to attract fish. Artificial lures include, but are not limited to: spoons, spinners, artificial flies, and plugs. Artificial lures are made of metal, plastic, wood, or other non-edible materials.

Bait (natural or artificial) means any substance which attracts fish. Natural bait includes any natural biological substance used to attract or catch fish (*e.g.,* herring/fish eggs). Artificial bait includes any manufactured device used to attract or catch fish.

* * * * *

Conservation area(s) * * *

* * * * *

(1) *Groundfish Conservation Area* or *GCA* means a conservation area created or modified and enforced to control catch of groundfish or protected species. Regulations at § 660.60(c)(3) describe the various purposes for which NMFS may implement certain types of GCAs through routine management measures. Regulations at § 660.70 further describe and define coordinates for certain GCAs, including: Yelloweye Rockfish Conservation Areas; Cowcod Conservation Areas; Groundfish Exclusion Areas; waters encircling the Farallon Islands; and waters encircling the Cordell Bank. GCAs also include closures bounded by the EEZ or depth-based lines approximating depth contours, including Bycatch Reduction Areas or BRAs, or bounded by depth contours and lines of latitude, including Block Area Closures, or BACs, and Rockfish Conservation Areas, or RCAs, which may be closed to fishing with particular gear types. BRA, BAC, and RCA boundaries may change seasonally according to conservation needs. Regulations at §§ 660.71 through 660.74, and § 660.76 define depth-based boundary lines with latitude/longitude coordinates that may be used to enact depth-based closures. Regulations in this section describe commonly used geographic coordinates that define lines of latitude. Fishing prohibitions associated with GCAs are in addition to those associated with other conservation areas.

(i) *Block Area Closures* or *BACs* are bounded on the north and south by commonly used geographic coordinates defined in this section, and on the east and west by the EEZ, and boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74 (10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1,280 m)). BACs may be implemented or modified as routine management measures, per the provisions of § 660.60(c). BACs may be implemented to control catch of groundfish by vessels taking and retaining groundfish in the EEZ seaward of Washington, Oregon, and California for vessels using any gear type (trawl or non-trawl). BACs may be implemented to minimize bycatch of Chinook salmon and coho salmon by bottom trawl or midwater trawl vessels in the EEZ seaward of Oregon and California, and by midwater trawl vessels in the EEZ seaward of Washington, but shoreward of the boundary line approximating the 250 fm (457 m) depth contour as defined in § 660.74. BACs may vary in their geographic boundaries, duration, and the gears to which they apply. Their geographic boundaries, applicable gear type(s) and/or specific fishery program, and effective dates will be announced in the **Federal Register**. BACs may be implemented within tribal Usual and Accustomed fishing areas but may only apply to non-tribal vessels. BACs may have a specific termination date as described in the **Federal Register**, or may be in effect until modified. BACs that are in effect until modified by NMFS are set out in the trip limit tables of subparts D through F of this part.

* * * * *

(vi) *Groundfish Exclusion Areas or GEAs* are closed areas intended to mitigate potential impacts to sensitive environments from certain groundfish fishing activity. GEAs may prohibit fishing by certain groundfish sectors or certain groundfish gear types. Geographic coordinates for GEAs are defined at § 660.70.

* * * * *

Weighted gear means any fishing gear that is combined with an object intended to make the bait, lure or hook sink (*e.g.* lead or steel sinkers).

■ 6. Amend § 660.12 by:
■ a. Redesignating paragraph (a)(19) as (20);
■ b. Adding new paragraph (a)(19); and
■ c. Adding new paragraph (a)(21).

The additions read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(19) Fish for, take and retain, possess (except for the purpose of continuous transiting) or land any species of groundfish with groundfish non-trawl bottom contact gear (defined at § 660.11) in the following EFHCAs: Arago Reef West, Bandon High Spot East, Garibaldi Reef North, Garibaldi Reef South, and Nehalem Bank East.

* * * * *

(21) Fish for, take and retain, possess (except for the purpose of continuous transiting) or land any species of groundfish in a Block Area Closure enacted under subparts C through F of this part.

* * * * *

■ 7. Amend § 660.13 by:
■ a. Revising paragraph (d)(4)(iv) introductory paragraph;
■ b. Redesignating paragraphs (d)(4)(iv)(A)(*30*) through (*37*) as (d)(4)(iv)(A)(*34*) through (*41*); and
■ c. Adding new paragraphs (d)(4)(iv)(A)(*30*) through (*33*) to read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) * * *
(4) * * *
(iv) Declaration reports will include: The vessel name and/or identification number, gear type, and monitoring type where applicable, (as defined in paragraph (d)(4)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type with the exception of vessels participating in the Shorebased IFQ Program (*i.e.,* gear switching) and those vessels declaring to fish inside the Non-Trawl RCA with non-bottom contact stationary vertical jig gear or groundfish troll gear (*i.e.,* if one of these declarations is used, no other declaration may be made on that fishing trip); however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(4)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.
(A) * * *
(*30*) Limited entry fixed gear non-bottom contact stationary vertical jig gear (allowed inside or outside the nontrawl RCA) (declaration code 12);
(*31*) Limited entry fixed gear non-bottom contact groundfish troll gear (allowed inside or outside the nontrawl RCA) (declaration code 13);
(*32*) Limited entry groundfish non-trawl, shorebased IFQ, non-bottom contact stationary vertical jig gear (allowed inside or outside the nontrawl RCA) (declaration code 14);
(*33*) Limited entry groundfish non-trawl, shorebased IFQ, non-bottom contact groundfish troll gear (allowed inside or outside the nontrawl RCA) (declaration code 15);
* * * * *

■ 8. Amend § 660.14 by:
■ a. Revising paragraph (d)(4) introductory paragraph, and paragraphs (d)(4)(iii) through (vii); and
■ b. Adding paragraphs (d)(4)(viii) through (ix).

The revisions and additions read as follows:

§ 660.14 Vessel Monitoring System (VMS) Requirements.

* * * * *
(d) * * *
(4) *VMS exemptions.* A vessel that is required to operate and maintain the mobile transceiver unit continuously 24 hours a day throughout the fishing year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(ix) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section and specified in the exemption report.
* * * * *
(iii) *Permit exemption.* If the limited entry permit had a change in vessel registration so that it is no longer registered to the vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status), the vessel may be exempted from VMS requirements providing the vessel is not used in a fishery requiring VMS off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.
(iv) *Long-term departure exemption.* A vessel participating in the open access fishery that is required to have VMS under paragraph (b)(2) of this section may be exempted from VMS provisions after the end of the fishing year in which it used non-groundfish trawl gear, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not use non-groundfish trawl gear to fish in the EEZ during the new fishing year. A vessel participating in the open access fishery that is required to have VMS under paragraph (b)(3) of this section also may be exempted from VMS provisions after the end of the fishing year in which it fished in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.
(v) *Maintenance Exemption.* When it is anticipated that a vessel will be without power or in a maintenance condition for more than 4 consecutive hours, preventing operation of the vessel's VMS unit, and if a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is in the maintenance condition until the time the maintenance is completed.
(vi) *Sale of Vessel Exemption.* When a new vessel owner purchases a vessel with VMS and does not intend to participate in an activity requiring VMS, but the previous vessel owner had not received a VMS exemption prior to the sale, VMS transmissions may be discontinued by the new vessel owner. Under this exemption, VMS transmissions can be discontinued indefinitely, upon purchase of the vessel, and no subsequent VMS transmissions will be required unless the new vessel owner engages in an activity requiring VMS.
(vii) *Emergency exemption.* Vessels required to have VMS under paragraph (b) of this section may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: Fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may apply for an emergency exemption from the VMS requirements specified in paragraph (b) of this section for his/her vessel by sending a written request to NMFS OLE specifying the following information: The reasons for seeking an exemption, including any supporting documents (*e.g.,* repair invoices, photographs showing damage to the vessel, insurance claim forms, *etc.*); the time period for which the exemption is requested; and the location of the vessel while the exemption is in effect. NMFS OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until NMFS OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the NMFS OLE determination.
(viii) *Submission of exemption reports.* Signed long-term departure exemption reports must be submitted by fax or by emailing an electronic copy of the actual report. In the event of an emergency in which an emergency exemption request will be submitted, initial contact with NMFS OLE must be made by telephone, fax or email within 24 hours from when the incident occurred. Emergency exemption requests must be requested in writing within 72 hours from when the incident occurred. Maintenance exemption requests must include signed written documentation of the work being done and the name of the company doing the work, if applicable. Sale of Vessel exemption requests must include

documentation of purchase of the vessel by the new owner. Other exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Submission methods for exemption requests, except maintenance, sale of vessel, long-term departures and emergency exemption requests, may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the vessel owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record for the vessel owner and is not received because the vessel owner's actual address has changed without notification to NMFS. Owners of vessels required to use VMS who do not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to be submitted to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(ix) *Valid exemption reports.* For an exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraphs (d)(4)(i) through (vi) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel operates following a maintenance exemption; at least 2 hours before the vessel resumes fishing for a species of fish or with gear requiring VMS in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under paragraph (d)(2)(i) of this section before returning to fish, that report may substitute for the exemption cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

* * * * *

■ 9. Amend § 660.60 by revising paragraphs (c)(3)(i) introductory paragraph, (c)(3)(i)(C), and (h)(7)(ii)(A) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(c) * * *

(3) * * *

(i) *Depth-based management measures.* Depth-based management measures, particularly closed areas known as Groundfish Conservation Areas, defined in § 660.11, include RCAs, BRAs, and BACs, and may be implemented in any fishery sector and/or for any gear type that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at §§ 660.70 through 660.74 and 660.76 or the EEZ. Depth-based management measures and closed areas may be used for the following conservation objectives: To protect and rebuild overfished or rebuilding stocks; to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species; or to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery. Depth-based management measures and closed areas may be used for the following economic objectives: To extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

* * * * *

(C) *Block Area Closures.* BACs, as defined at § 660.11, may be closed or reopened, in the EEZ off Washington, Oregon, and California, for vessels taking and retaining groundfish using any gear (trawl or non-trawl) in the EEZ consistent with the purposes described in this paragraph (c)(3)(i).

* * * * *

(h) * * *

(7) * * *

(ii) * * *

(A) *Fishing in limited entry and open access fisheries with different trip limits.* Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that fishes in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry allocation as established under the biennial groundfish harvest specifications. If a vessel has a limited entry permit registered to it at any time during the trip limit period and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear. These provisions do not apply to:

(*1*) IFQ species (defined at § 660.140(c)) for vessels that are declared into the Shorebased IFQ Program (see § 660.13(d)(4)(iv)(A)) for valid Shorebased IFQ Program declarations).

(*2*) Vessels with a valid limited entry permit endorsed for longline and/or pot gear fishing inside the nontrawl RCA with stationary vertical jig gear or groundfish troll gear as defined at § 660.320(b)(6). Vessels fishing with one of these two approved hook-and-line gear configurations may fish up to the limited entry fixed gear trip limits in Table 2 (North) and Table 2 (South) of subpart E, either inside or outside the nontrawl RCA. This provision only applies on fishing trips where the vessel made the appropriate declaration (specified at § 660.13(d)(4)(iv)(A)).

* * * * *

■ 10. Amend § 660.70 by revising paragraphs (g) through (q) and adding paragraphs (r) through (v) to read as follows:

§ 660.70 Groundfish Conservation areas.

* * * * *

(g) *Tillamook YRCA.* The Tillamook YRCA is an area off northern Oregon intended to protect yelloweye rockfish. The Tillamook YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 45°40.96′ N lat.; 124°27.52′ W long.;

(2) 45°40.96′ N lat.; 124°19.99′ W long.;
(3) 45°34.44′ N lat.; 124°14.48′ W long.;
(4) 45°31.93′ N lat.; 124°14.05′ W long.;
(5) 45°31.84′ N lat.; 124°22.04′ W long.;
(6) 45°36.95′ N lat.; 124°24.45′ W long.;
(7) 45°38.89′ N lat.; 124°25.92′ W long.; and connecting back to 45°40.96′ N lat.; 124°27.52′ W long.

(h) *Newport YRCA.* The Newport YRCA is an area off central Oregon intended to protect yelloweye rockfish. The Newport YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 44°46.00′ N lat.; 124°32.57′ W long.;
(2) 44°46.00′ N lat.; 124°32.00′ W long.;
(3) 44°42.00′ N lat.; 124°30.00′ W long.;
(4) 44°39.00′ N lat.; 124°30.00′ W long.;
(5) 44°39.00′ N lat.; 124°34.00′ W long.;
(6) 44°43.16′ N lat.; 124°34.00′ W long.;
(7) 44°44.54′ N lat.; 124°33.58′ W long.; and connecting back to 44°46.00′ N lat.; 124°32.57′ W long.

(i) *Stonewall Bank Yelloweye Rockfish Conservation Area.* The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 44°37.46′ N lat.; 124°24.92′ W long.;
(2) 44°37.46′ N lat.; 124°23.63′ W long.;
(3) 44°28.71′ N lat.; 124°21.80′ W long.;
(4) 44°28.71′ N lat.; 124°24.10′ W long.;
(5) 44°31.42′ N lat.; 124°25.47′ W long.; and connecting back to 44°37.46′ N lat.; 124°24.92′ W long.

(j) *Stonewall Bank Yelloweye Rockfish Conservation Area, Expansion 1.* The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) Expansion 1 is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA Expansion 1 is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 44°41.76′ N lat.; 124°30.02′ W long.;
(2) 44°41.73′ N lat.; 124°21.60′ W long.;
(3) 44°25.25′ N lat.; 124°16.94′ W long.;
(4) 44°25.29′ N lat.; 124°30.14′ W long.;
(5) 44°41.76′ N lat.; 124°30.02′ W long.; and connecting back to 44°41.76′ N lat.; 124°30.02′ W long.

(k) *Stonewall Bank Yelloweye Rockfish Conservation Area, Expansion 2.* The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) Expansion 2 is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA Expansion 2 is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 44°38.54′ N lat.; 124°27.41′ W long.;
(2) 44°38.54′ N lat.; 124°23.86′ W long.;
(3) 44°27.13′ N lat.; 124°21.50′ W long.;
(4) 44°27.13′ N lat.; 124°26.89′ W long.;
(5) 44°31.30′ N lat.; 124°28.35′ W long.; and connecting back to 44°38.54′ N lat.; 124°27.41′ W long.

(l) *Florence YRCA.* The Florence YRCA is an area off central Oregon intended to protect yelloweye rockfish. The Florence YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in order listed:
(1) 44°30.04′ N lat.; 124°42.31′ W long.;
(2) 44°30.19′ N lat.; 124°40.46′ W long.;
(3) 44°25.00′ N lat.; 124°37.00′ W long.;
(4) 44°25.00′ N lat.; 124°45.00′ W long.;
(5) 44°26.71′ N lat.; 124°45.00′ W long.; and connecting back to 44°30.04′ N lat.; 124°42.31′ W long.

(m)*Heceta Bank YRCA.* The Heceta Bank YRCA is an area off central Oregon intended to protect yelloweye rockfish. The Heceta Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in order listed:
(1) 44°16.28′ N lat., 124°47.86′ W long.;
(2) 44°15.38′ N lat., 124°49.86′ W long.;
(3) 44°14.49′ N lat., 124°51.82′ W long.;
(4) 44°14.01′ N lat., 124°52.88′ W long.;
(5) 44°13.47′ N lat., 124°54.08′ W long.;
(6) 44°12.72′ N lat., 124°54.07′ W long.;
(7) 44°11.53′ N lat., 124°54.06′ W long.;
(8) 44°08.72′ N lat., 124°54.02′ W long.;
(9) 44°06.68′ N lat., 124°54.00′ W long.;
(10) 44°05.34′ N lat., 124°53.10′ W long.;
(11) 44°02.88′ N lat., 124°53.96′ W long.;
(12) 44°02.18′ N lat., 124°54.29′ W long.;
(13) 44°00.14′ N lat., 124°55.25′ W long.;
(14) 43°58.36′ N lat., 124°55.42′ W long.;
(15) 43°57.68′ N lat., 124°55.48′ W long.;
(16) 43°56.66′ N lat., 124°55.45′ W long.;
(17) 43°56.65′ N lat., 124°55.49′ W long.;
(18) 43°56.64′ N lat., 124°56.53′ W long.;
(19) 43°56.74′ N lat., 124°56.74′ W long.;
(20) 43°59.18′ N lat., 124°56.94′ W long.;
(21) 44°00.45′ N lat., 124°56.35′ W long.;
(22) 44°02.34′ N lat., 124°55.49′ W long.;
(23) 44°04.81′ N lat., 124°55.65′ W long.;
(24) 44°06.45′ N lat., 124°55.78′ W long.;
(25) 44°08.47′ N lat., 124°55.93′ W long.;
(26) 44°09.85′ N lat., 124°56.04′ W long.;
(27) 44°11.34′ N lat., 124°56.16′ W long.;
(28) 44°12.92′ N lat., 124°56.28′ W long.;
(29) 44°14.06′ N lat., 124°55.10′ W long.;
(30) 44°15.32′ N lat., 124°53.79′ W long.;
(31) 44°16.90′ N lat., 124°52.16′ W long.;
(32) 44°16.96′ N lat., 124°52.11′ W long.;
(33) 44°16.96′ N lat., 124°51.95′ W long.;
(34) 44°17.02′ N lat., 124°48.02′ W long.;
(35) 44°17.02′ N lat., 124°47.47′ W long.; and connecting back to 44°16.28′ N lat., 124°47.86′ W long.

(n) *Point St. George YRCA.* The Point St. George YRCA is an area off the northern California coast, northwest of Point St. George, intended to protect yelloweye rockfish. The Point St. George YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 41°51.00′ N lat., 124°23.75′ W long.;
(2) 41°51.00′ N lat., 124°20.75′ W long.;

(3) 41°48.00′ N lat., 124°20.75′ W long.;
(4) 41°48.00′ N lat., 124°23.75′ W long.; and connecting back to 41°51.00′ N lat., 124°23.75′ W long.

(o) *South Reef YRCA.* The South Reef YRCA is an area off the northern California coast, southwest of Crescent City, intended to protect yelloweye rockfish. The South Reef YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 41°42.20′ N lat., 124°16.00′ W long.;
(2) 41°42.20′ N lat., 124°13.80′ W long.;
(3) 41°40.50′ N lat., 124°13.80′ W long.;
(4) 41°40.50′ N lat., 124°16.00′ W long.; and connecting back to 41°42.20′ N lat., 124°16.00′ W long.

(p) *Reading Rock YRCA.* The Reading Rock YRCA is an area off the northern California coast, between Crescent City and Eureka, intended to protect yelloweye rockfish. The Reading Rock YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 41°21.50′ N lat., 124°12.00′ W long.;
(2) 41°21.50′ N lat., 124°10.00′ W long.;
(3) 41°20.00′ N lat., 124°10.00′ W long.;
(4) 41°20.00′ N lat., 124°12.00′ W long.; and connecting back to 41°21.50′ N lat., 124°12.00′ W long.

(q) *Point Delgada YRCAs.* The Point Delgada YRCAs are two areas off the northern California coast, south of Point Delgada and Shelter Cove, intended to protect yelloweye rockfish. The Northern Point Delgada YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 39°59.00′ N lat., 124°05.00′ W long.;
(2) 39°59.00′ N lat., 124°03.00′ W long.;
(3) 39°57.00′ N lat., 124°03.00′ W long.;
(4) 39°57.00′ N lat., 124°05.00′ W long.; and connecting back to 39°59.00′ N lat., 124°05.00′ W long.

(r) *Southern Point Delgada YRCA.* The Southern Point Delgada YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 39°57.00′ N lat., 124°05.00′ W long.;
(2) 39°57.00′ N lat., 124°02.00′ W long.;
(3) 39°54.00′ N lat., 124°02.00′ W long.;
(4) 39°54.00′ N lat., 124°05.00′ W long.; and connecting back to 39°57.00′ N lat., 124°05.00′ W long.

(s) *Cowcod Conservation Areas.* The Cowcod Conservation Areas (CCAs) are two areas off the southern California coast intended to protect cowcod.
(1) *Western CCA.* The Western CCA is an area south of Point Conception defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°50.00′ N lat., 119°30.00′ W long.:
(i) 33°50.00′ N lat., 119°30.00′ W long.;
(ii) 33°50.00′ N lat., 118°50.00′ W long.;
(iii) 32°20.00′ N lat., 118°50.00′ W long.;
(iv) 32°20.00′ N lat., 119°37.00′ W long.;
(v) 33°00.00′ N lat., 119°37.00′ W long.;
(vi) 33°00.00′ N lat., 119°53.00′ W long.;
(vii) 33°33.00′ N lat., 119°53.00′ W long.; and
(viii) 33°33.00′ N lat., 119°30.00′ W long.
(2) *Transit corridor.* The Western CCA transit corridor is bounded on the north by the latitude line at 33°00.50′ N lat., and bounded on the south by the latitude line at 32°59.50′ N lat.
(3) *Eastern CCA.* The Eastern CCA is an area west of San Diego defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°42.00′ N lat., 118°02.00′ W long.:
(i) 32°42.00′ N lat., 118°02.00′ W long.;
(ii) 32°42.00′ N lat., 117°50.00′ W long.;
(iii) 32°36.70′ N lat., 117°50.00′ W long.;
(iv) 32°30.00′ N lat., 117°53.50′ W long.; and
(v) 32°30.00′ N lat., 118°02.00′ W long.

(t) *Groundfish Exclusion Areas.* The Groundfish Exclusion Areas (GEAs) are eight areas south of Point Conception intended to protect sensitive areas, including areas with coral and sea pens.
(1) *Hidden Reef.* The Hidden Reef GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°46.14′ N lat., 119°10.45′ W long.:
(i) 33°46.14′ N lat., 119°10.45′ W long.;
(ii) 33°46.14′ N lat., 119°05.96′ W long.;
(iii) 33°41.40′ N lat., 119°05.96′ W long.; and
(iv) 33°41.40′ N lat., 119°10.45′ W long.
(2) *West of Santa Barbara Island.* The West of Santa Barbara Island GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°33.64′ N lat., 119°18.54′ W long.:
(i) 33°33.64′ N lat., 119°18.54′ W long.;
(ii) 33°33.64′ N lat., 119°07.57′ W long.;
(iii) 33°27.90′ N lat., 119°07.57′ W long; and
(iv) 33°27.90′ N lat., 119°18.54′ W long.
(3) *Potato Bank.* The Potato Bank GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°21.00′ N lat., 119°53.00′ W long.:
(i) 33°21.00′ N lat., 119°53.00′ W long.;
(ii) 33°21.00′ N lat., 119°45.67′ W long.;
(iii) 33°11.00′ N lat., 119°45.67′ W long.; and
(iv) 33°11.00′ N lat., 119°53.00′ W long.
(4) *107/118 Bank.* The 107/118 Bank GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°05.51′ N lat., 119°41.29′ W long.:
(i) 33°05.51′ N lat., 119°41.29′ W long.;
(ii) 33°08.64′ N lat., 119°36.71′ W long.;
(iii) 33°03.50′ N lat., 119°31.69′ W long.; and
(iv) 33°00.36′ N lat., 119°36.27′ W long.
(5) *Cherry Bank.* The Cherry Bank GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°50.86′ N lat., 119°29.40′ W long.:
(i) 32°50.86′ N lat., 119°29.40′ W long.;
(ii) 32°56.96′ N lat., 119°19.82′ W long.;
(iii) 32°54.69′ N lat., 119°17.78′ W long.; and
(iv) 32°48.59′ N lat., 119°27.35′ W long.
(6) *Seamount 109.* The Seamount 109 GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°43.75′ N lat., 119°37.00′ W long.:
(i) 32°43.75′ N lat., 119°37.00′ W long.;

(ii) 32°43.75′ N lat., 119°34.29′ W long.;
(iii) 32°31.95′ N lat., 119°26.94′ W long.;
(iv) 32°30.47′ N lat., 119°29.71′ W long.; and
(v) 32°39.54′ N lat., 119°37.00′ W long.

(7) *43-Fathom Spot.* The 43-Fathom Spot GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°42.00′ N lat., 118°00.05′ W long.:
(i) 32°42.00′ N lat., 118°00.05′ W long.;
(ii) 32°42.00′ N lat., 117°50.00′ W long.;
(iii) 32°36.70′ N lat., 117°50.00′ W long.;
(iv) 32°36.18′ N lat., 117°50.27′ W long.; and
(v) 32°36.18′ N lat., 118°00.05′ W long.

(8) *Northeast Bank.* The Northeast Bank GEA is defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°27.39′ N lat., 119°37.00′ W long.:
(i) 32°27.39′ N lat., 119°37.00′ W long.;
(ii) 32°27.39′ N lat., 119°31.60′ W long.;
(iii) 32°20.00′ N lat., 119°31.60′ W long.; and
(iv) 32°20.00′ N lat., 119°37.00′ W long.

(u) *Farallon Islands.* The Farallon Islands, off San Francisco and San Mateo Counties, include Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock. Generally, the State of California prohibits fishing for groundfish between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands.

(v) *Cordell Bank.* Cordell Bank is located offshore of California's Marin County. Generally, fishing for groundfish is prohibited within Cordell Bank as defined by specific latitude and longitude coordinates. The Cordell Bank closed area is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:
(1) 38°03.18′ N lat., 123°20.77′ W long.;
(2) 38°06.29′ N lat., 123°25.03′ W long.;
(3) 38°06.34′ N lat., 123°29.32′ W long.;
(4) 38°04.57′ N lat., 123°31.30′ W long.;
(5) 38°02.32′ N lat., 123°31.07′ W long.;
(6) 38°00.00′ N lat., 123°28.40′ W long.;
(7) 37°58.10′ N lat., 123°26.66′ W long.;
(8) 37°55.07′ N lat., 123°26.81′ W long.;
(9) 38°00.00′ N lat., 123°23.08′ W long.; and connecting back to 38°03.18′ N lat., 123°20.77′ W long.

■ 11. Amend § 660.72 by:
■ a. Redesignating paragraphs (j) through (m) as (r) through (u);
■ b. Redesignating paragraphs (f) through (i) as (j) through (m);
■ c. Adding new paragraphs (f) through (i);
■ d. Adding paragraphs (n) through (q);
■ e. Revising newly redesignated paragraphs (r)(139) through (142) and (186);
■ f. Adding new paragraphs (v) through (y).

The revisions and additions read as follows:

§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

* * * * *

(f) The 50 fm (91 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°31.77′ N lat., 119°3.41′ W long.;
(2) 33°29.66′ N lat., 119°5.86′ W long.;
(3) 33°26.94′ N lat., 119°2.95′ W long.;
(4) 33°27.08′ N lat., 119°0.51′ W long.;
(5) 33°28.82′ N lat., 118°59.42′ W long.;
(6) 33°30.67′ N lat., 119°0.88′ W long.; and
(7) 33°31.77′ N lat., 119°3.41′ W long.

(g) The 50 fm (91 m) depth contour around Tanner Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°45.53′ N lat., 119°13.28′ W long.;
(2) 32°43.98′ N lat., 119°15.05′ W long.;
(3) 32°38.45′ N lat., 119°4.92′ W long.;
(4) 32°41.44′ N lat., 119°3.71′ W long.;
(5) 32°45.02′ N lat., 119°11.08′ W long.; and
(6) 32°45.53′ N lat., 119°13.28′ W long.

(h) The 50 fm (91 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°22.14′ N lat., 119°42.12′ W long.;
(2) 33°17.68′ N lat., 119°43.24′ W long.;
(3) 33°15.29′ N lat., 119°39.32′ W long.;
(4) 33°11.98′ N lat., 119°29.64′ W long.;
(5) 33°11.6′ N lat., 119°27.26′ W long.;
(6) 33°12.99′ N lat., 119°16.36′ W long.;
(7) 33°14.43′ N lat., 119°17.42′ W long.;
(8) 33°17.2′ N lat., 119°23.16′ W long.;
(9) 33°20.73′ N lat., 119° 27.33′ W long.; and
(10) 33° 22.14′ N lat., 119°42.12′ W long.

(i) The 50 fm (91 m) depth contour around Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°35.89′ N lat., 119°18.39′ W long.;
(2) 32°31.93′ N lat., 119°20.54′ W long.;
(3) 32°29.47′ N lat., 119°14.81′ W long.;
(4) 32°28.14′ N lat., 119°14.94′ W long.;
(5) 32°24.37′ N lat., 119°3.69′ W long.;
(6) 32°24.5′ N lat., 119°0.52′ W long.;
(7) 32°26.04′ N lat., 119°0.46′ W long.; and
(8) 32°35.89′ N lat., 119°18.39′ W long.

* * * * *

(n) The 60 fm (110 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°32.34′ N lat., 119°3.85′ W long.;
(2) 33°28.79′ N lat., 119°6.76′ W long.;
(3) 33°26.46′ N lat., 119°3.12′ W long.;
(4) 33°27.08′ N lat., 119°0.37′ W long.;
(5) 33°28.86′ N lat., 118°59.31′ W long.;
(6) 33°30.82′ N lat., 119° 0.97′ W long.; and
(7) 33°32.34′ N lat., 119°3.85′ W long.

(o) The 60 fm (91 m) depth contour around Tanner Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°45.65′ N lat., 119°13.29′ W long.;
(2) 32°44.21′ N lat., 119°15.68′ W long.;
(3) 32°37.4′ N lat., 119°4.89′ W long.;
(4) 32°41.42′ N lat., 119°3.32′ W long.;
(5) 32°45.66′ N lat., 119°12.1′ W long.; and
(6) 32°45.65′ N lat., 119°13.29′ W long.

(p) The 60 fm (110 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°26.41′ N lat., 119°39.84′ W long.;
(2) 33°22.94′ N lat., 119°47.34′ W long.;

(3) 33°16.39′ N lat., 119°42.64′ W long.;
(4) 33°11.86′ N lat., 119°29.61′ W long.;
(5) 33°11.52′ N lat., 119°27.25′ W long.;
(6) 33°12.97′ N lat., 119°16.3′ W long.;
(7) 33°14.48′ N lat., 119°17.42′ W long.;
(8) 33°17.23′ N lat., 119°23.14′ W long.;
(9) 33°21.21′ N lat., 119°27.84′ W long.;
(10) 33°22.65′ N lat., 119°34.31′ W long.; and
(11) 33°26.41′ N lat., 119°39.84′ W long.

(q) The 60 fm (110 m) depth contour around Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°36.79′ N lat., 119°18.81′ W long.;
(2) 32°31.94′ N lat., 119°20.75′ W long.;
(3) 32°29.5′ N lat., 119°15′ W long.;
(4) 32°27.95′ N lat., 119°15.12′ W long.;
(5) 32°24.03′ N lat., 119°3.72′ W long.;
(6) 32°24.46′ N lat., 118°59.56′ W long.;
(7) 32°25.42′ N lat., 118°59.42′ W long.;
(8) 32°27.41′ N lat., 119°1.99′ W long.; and
(9) 32°36.79′ N lat., 119°18.81′ W long.

(r) * * *

(139) 38°04.16′ N lat., 123°19.05′ W long.;
(140) 38°03.18′ N lat., 123°20.77′ W long.;
(141) 38°00.00′ N lat., 123°23.08′ W long.;
(142) 37°55.07′ N lat., 123°26.81′ W long.;
* * * * *
(186) 36°10.28′ N lat., 121°43.06′ W long.;
* * * * *

(v) The 75 fm (137 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°33.58′ N lat., 119°4.84′ W long.;
(2) 33°33.2′ N lat., 119°5.37′ W long.;
(3) 33°31.75′ N lat., 119°4.61′ W long.;
(4) 33°28.67′ N lat., 119°7.06′ W long.;
(5) 33°26.38′ N lat., 119°3.24′ W long.;
(6) 33°27.08′ N lat., 119°0.26′ W long.;
(7) 33°28.85′ N lat., 118°59.21′ W long.;
(8) 33°30.85′ N lat., 119°0.94′ W long.;
(9) 33°31.91′ N lat., 119°2.98′ W long.; and
(10) 33°33.58′ N lat., 119°4.84′ W long.

(w) The 75 fm (137 m) depth contour around Tanner Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°45.66′ N lat., 119°14.45′ W long.;
(2) 32°44.19′ N lat., 119°15.9′ W long.;
(3) 32°37.02′ N lat., 119°4.65′ W long.;
(4) 32°41.45′ N lat., 119°3.14′ W long.;
(5) 32°45.77′ N lat., 119°11.93′ W long.; and
(6) 32°45.66′ N lat., 119°14.45′ W long.

(x) The 75 fm (137 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°30.94′ N lat., 119°45.06′ W long.;
(2) 33°28.59′ N lat., 119° 52.02′ W long.;
(3) 33°16.05′ N lat., 119°43.86′ W long.;
(4) 33°15.2′ N lat., 119°39.36′ W long.;
(5) 33°11.71′ N lat., 119°29.48′ W long.;
(6) 33°11.39′ N lat., 119°26.58′ W long.;
(7) 33°12.96′ N lat., 119°16.23′ W long.;
(8) 33°14.52′ N lat., 119°17.42′ W long.;
(9) 33°17.24′ N lat., 119°23.09′ W long.;
(10) 33°21.24′ N lat., 119°27.83′ W long.;
(11) 33°22.71′ N lat., 119°33.54′ W long.; and
(12) 33°30.94′ N lat., 119°45.06′ W long.

(y) The 75 fm (137 m) depth contour around Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°37.38′ N lat., 119°19.45′ W long.;
(2) 32°31.9′ N lat., 119°20.9′ W long.;
(3) 32°29.52′ N lat.; 119°15.94′ W long.;
(4) 32°29.64′ N lat.; 119°15.4′ W long.;
(5) 32°29.24′ N lat.; 119°15.09′ W long.;
(6) 32°27.82′ N lat., 119°15.3′ W long.;
(7) 32°23.85′ N lat., 119°3.95′ W long.;
(8) 32°24.53′ N lat., 118°58.2′ W long.;
(9) 32°27.1′ N lat., 119°1.2′ W long.; and
(10) 32°37.38′ N lat., 119°19.45′ W long.

■ 12. Amend § 660.73 by:
■ a. Redesignating paragraphs (i) through (m) as (p) through (t);
■ b. Redesignating paragraphs (e) through (h) as (i) through (l);
■ c. Adding new paragraphs (e) through (h);
■ d. Adding new paragraphs (m) through (o); and
■ e. Adding new paragraphs (u) through (y).

The revisions and additions read as follows:

§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

* * * * *

(e) The 100 fm (183 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°33.85′ N lat., 119°4.87′ W long.;
(2) 33°33.27′ N lat., 119°5.67′ W long.;
(3) 33°31.9′ N lat., 119°5.08′ W long.;
(4) 33°28.62′ N lat., 119°7.28′ W long.;
(5) 33°27.04′ N lat., 119°5.84′ W long.;
(6) 33°26.2′ N lat., 119°3.24′ W long.;
(7) 33°27.07′ N lat., 118°59.96′ W long.;
(8) 33°28.7′ N lat., 118°58.76′ W long.;
(9) 33°31′ N lat., 119°1.02′ W long.;
(10) 33°31.99′ N lat., 119°2.86′ W long.; and
(11) 33°33.85′ N lat., 119°4.87′ W long.

(f) The 100 fm (183 m) depth contour around Tanner Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°45.92′ N lat., 119°14.6′ W long.;
(2) 32°44.34′ N lat., 119°16.43′ W long.;
(3) 32°36.75′ N lat., 119°4.51′ W long.;
(4) 32°41.41′ N lat., 119°2.93′ W long.;
(5) 32° 45.85′ N lat., 119°10.62′ W long.; and
(6) 32° 45.92′ N lat., 119°14.6′ W long.

(g) The 100 fm (183 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°31.37′ N lat., 119°44.84′ W long.;
(2) 33°28.82′ N lat., 119°52.19′ W long.;
(3) 33°25.43′ N lat., 119°51.27′ W long.;
(4) 33°18.01′ N lat., 119°47.18′ W long.;
(5) 33°15.8′ N lat., 119°43.64′ W long.;
(6) 33°14.22′ N lat., 119°37′ W long.;
(7) 33°11.56′ N lat., 119°29.58′ W long.;
(8) 33°11.28′ N lat., 119°26.54′ W long.;
(9) 33°12.94′ N lat., 119°15.86′ W long.;
(10) 33°14.48′ N lat., 119°16.97′ W long.;
(11) 33°17.33′ N lat., 119°22.93′ W long.;
(12) 33°21.28′ lat., 119°27.66′ W long.;

(13) 33°23.38′ N lat., 119°33.29′ W long.; and
(14) 33°31.37′ N lat., 119°44.84′ W long.

(h) The 100 fm (183 m) depth contour around Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°37.79′ N lat., 119°19.68′ W long.;
(2) 32°36.19′ N lat., 119°21.84′ W long.;
(3) 32°33.16′ N lat., 119°21.76′ W long.;
(4) 32°30.92′ N lat., 119°20.46′ W long.;
(5) 32°29.25′ N lat., 119°15.93′ W long.;
(6) 32°29.44′ N lat., 119°15.44′ W long.;
(7) 32°29.23′ N lat., 119°15.23′ W long.;
(8) 32°27.48′ N lat., 119°15.56′ W long.;
(9) 32°23.19′ N lat., 119°3.23′ W long.;
(10) 32°22.94′ N lat., 118°57.58′ W long.;
(11) 32°24.47′ N lat., 118°57.61′ W long.;
(12) 32°27.3′ N lat., 119°1.06′ W long.; and
(13) 32°37.79′ N lat., 119°19.68′ W long.

* * * * *

(m) The 125 fm (229 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°33.96′ N lat., 119°4.88′ W long.;
(2) 33°33.28′ N lat., 119°5.88′ W long.;
(3) 33°30.98′ N lat., 119°6.32′ W long.;
(4) 33°28.52′ N lat., 119°7.7′ W long.;
(5) 33°26.93′ N lat., 119°5.94′ W long.;
(6) 33°25.96′ N lat., 119°3.34′ W long.;
(7) 33°27.01′ N lat., 118°59.73′ W long.;
(8) 33°28.68′ N lat., 118°58.43′ W long.;
(9) 33°31.2′ N lat., 119°1.09′ W long.;
(10) 33°32.04′ N lat., 119° 2.77′ W long.; and
(11) 33°33.96′ N lat., 119° 4.88′ W long.

(n) The 125 fm (229 m) depth contour around Tanner Bank and Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°46.01′ N lat., 119°14.63′ W long.;
(2) 32°44.35′ N lat., 119°16.58′ W long.;
(3) 32°40.85′ N lat., 119°11.61′ W long.;
(4) 32°38.93′ N lat., 119°11.9′ W long.;
(5) 32°41.32′ N lat., 119°18.11′ W long.;
(6) 32°36.16′ N lat., 119°22.16′ W long.;
(7) 32°33.09′ N lat., 119°21.89′ W long.;
(8) 32°30.73′ N lat., 119°20.43′ W long.;
(9) 32°28.94′ N lat., 119°15.4′ W long.;
(10) 32°27.46′ N lat., 119°15.62′ W long.;
(11) 32°24.58′ N lat., 119°9.83′ W long.;
(12) 32°22.97′ N lat., 119°3′ W long.;
(13) 32°22.03′ N lat., 118°56.26′ W long.;
(14) 32°24.63′ N lat., 118°57.54′ W long.;
(15) 32°34.72′ N lat., 119°10.24′ W long.;
(16) 32°37.93′ N lat., 119°7.88′ W long.;
(17) 32°36.55′ N lat., 119°4.42′ W long.;
(18) 32°41.5′ N lat., 119°2.65′ W long.;
(19) 32°45.98′ N lat., 119°10.71′ W long.; and
(20) 32°46.01′ N lat., 119°14.63′ W long.

(o) The 125 fm (229 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°31.65′ N lat., 119°44.84′ W long.;
(2) 33°28.91′ N lat., 119°52.35′ W long.;
(3) 33°25.39′ N lat., 119°51.44′ W long.;
(4) 33°17.94′ N lat., 119°47.31′ W long.;
(5) 33°15.33′ N lat., 119°43.4′ W long.;
(6) 33°14.03′ N lat., 119°37.02′ W long.;
(7) 33°11.49′ N lat., 119°29.58′ W long.;
(8) 33°11.21′ N lat., 119°26.46′ W long.;
(9) 33°12.9′ N lat., 119°15.74′ W long.;
(10) 33°14.51′ N lat., 119°14.92′ W long.;
(11) 33°14.76′ N lat., 119°17.07′ W long.;
(12) 33°17.44′ N lat., 119°22.82′ W long.;
(13) 33°21.37′ N lat., 119°27.53′ W long.;
(14) 33°23.44′ N lat., 119°33.11′ W long.; and
(15) 33°31.65′ N lat., 119°44.84′ W long.

* * * * *

(u) The 150 fm (274 m) depth contour around Santa Barbara Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°34.6′ N lat., 119°4.57′ W long.;
(2) 33°33.13′ N lat., 119°6.65′ W long.;
(3) 33°28.13′ N lat., 119°8.17′ W long.;
(4) 33°25.55′ N lat., 119°3.64′ W long.;
(5) 33°26.96′ N lat., 118°59.58′ W long.;
(6) 33°28.68′ N lat., 118°58.24′ W long.; and (7) 33°34.6′ N lat., 119°4.57′ W long.;

(v) The 150 fm (274 m) depth contour around Tanner Bank and Cortes Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°46.12′ N lat., 119°14.73′ W long.;
(2) 32°44.37′ N lat., 119°16.82′ W long.;
(3) 32°41.02′ N lat., 119°12.01′ W long.;
(4) 32°39.28′ N lat., 119°12.18′ W long.;
(5) 32°41.46′ N lat., 119°18.28′ W long.;
(6) 32°36.17′ N lat., 119°22.31′ W long.;
(7) 32°32.97′ N lat., 119°22.31′ W long.;
(8) 32°30.57′ N lat., 119°20.54′ W long.;
(9) 32°28.94′ N lat., 119°15.53′ W long.;
(10) 32°27.45′ N lat., 119°15.79′ W long.;
(11) 32°24.86′ N lat., 119°12.93′ W long.;
(12) 32°21.43′ N lat., 118°55.1′ W long.;
(13) 32°24.67′ N lat., 118°57.37′ W long.;
(14) 32°34.34′ N lat., 119°9.28′ W long.;
(15) 32°37.39′ N lat., 119°7.54′ W long.;
(16) 32°36.38′ N lat., 119°4.32′ W long.;
(17) 32°41.59′ N lat., 119°2.46′ W long.;
(18) 32°46.07′ N lat., 119°10.68′ W long.; and
(19) 32°46.12′ N lat., 119°14.73′ W long.

(w) The 150 fm (274 m) depth contour around San Nicholas Island off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°33.22′ N lat., 119°46.7′ W long.;
(2) 33°28.97′ N lat., 119°53.04′ W long.;
(3) 33°24.67′ N lat., 119°51.27′ W long.;
(4) 33°19.95′ N lat., 119°50.23′ W long.;
(5) 33°13.07′ N lat., 119°41.99′ W long.;
(6) 33°13.1′ N lat., 119°34.66′ W long.;
(7) 33°11.45′ N lat., 119°29.57′ W long.;
(8) 33°11.13′ N lat., 119°26.22′ W long.;

(9) 33°11.8′ N lat., 119°20.64′ W long.;
(10) 33°12.91′ N lat., 119°15.53′ W long.;
(11) 33°14.52′ N lat., 119°14.72′ W long.;
(12) 33°15.32′ N lat., 119°16.01′ W long.;
(13) 33°14.78′ N lat., 119°16.97′ W long.;
(14) 33°15.73′ N lat., 119°19.02′ W long.;
(15) 33°16.73′ N lat., 119°18.97′ W long.;
(16) 33°19.37′ N lat., 119°24.95′ W long.;
(17) 33°21.69′ N lat., 119°27.44′ W long.;
(18) 33°23.82′ N lat., 119°32.87′ W long.; and
(19) 33°33.22′ N lat., 119°46.7′ W long.

(x) The 150 fm (274 m) depth contour around Osborn Bank off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°23.53′ N lat., 119°3.73′ W long.;
(2) 33°23.57′ N lat., 119°6.66′ W long.;
(3) 33°23.12′ N lat., 119°7.25′ W long.;
(4) 33°20.51′ N lat., 119°2.15′ W long.;
(5) 33°20.58′ N lat., 119°0.48′ W long.;
(6) 33°21.32′ N lat., 118°59.89′ W long.; and
(7) 33°23.53′ N lat., 119°3.73′ W long.

(y) The 150 fm (274 m) depth contour around the Eastern CCA area off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°41.41′ N lat., 117°59.05′ W long.;
(2) 32°40.57′ N lat., 118°1.97′ W long.;
(3) 32°40.04′ N lat.,118°1.23′ W long.;
(4) 32°39.82′ N lat., 118°0.03′ W long.;
(5) 32°38.02′ N lat., 117°57.86′ W long.;
(6) 32°35.38′ N lat., 117°56.23′ W long.;
(7) 32°36.68′ N lat., 117°55.02′ W long.;
(8) 32°40.42′ N lat., 117°57.15′ W long.; and
(9) 32°41.41′ N lat., 117°59.05′ W long.

■ 13. Amend § 660.78 by:
■ a. Redesignating paragraphs (p) through (r) as paragraphs (s) through (u);
■ b. Redesignating paragraph (o) as paragraph (q);
■ c. Redesignating paragraphs (f) through (n) as paragraphs (g) through (o);
■ d. Adding new paragraph (f);
■ e. Adding new paragraph (p); and
■ f. Adding new paragraph (r).

The revisions and additions read as follows:

§ 660.78 EFHCAs off the Coast of Oregon.

* * * * *

(f) *Nehalem Bank East.* The boundary of the Nehalem Bank East EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 45°47.95′ N lat., 124°31.70′ W long.:
(1) 45°47.95′ N lat., 124°31.70′ W long.;
(2) 45°52.28′ N lat., 124°38.46′ W long.;
(3) 45°56.45′ N lat., 124°38.00′ W long.;
(4) 45°58.33′ N lat., 124°38.75′ W long.;
(5) 46°00.83′ N lat., 124°36.78′ W long.;
(6) 45°59.94′ N lat., 124°34.63′ W long.;
(7) 45°58.90′ N lat., 124°33.47′ W long.;
(8) 45°54.27′ N lat., 124°30.73′ W long.;
(9) 45°53.62′ N lat., 124°30.83′ W long.;
(10) 45°52.90′ N lat., 124°30.67′ W long.;
(11) 45°52.03′ N lat., 124°30.60′ W long.;
(12) 45°51.75′ N lat., 124°30.85′ W long.; and
(13) 45°51.53′ N lat., 124°31.15′ W long.

* * * * *

(p) *Arago Reef West.* The boundary of the Arago Reef West EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 43°16.24′ N lat., 124°27.66′ W long.:
(1) 43°16.24′ N lat., 124°27.66′ W long.;
(2) 43°14.23′ N lat., 124°29.28′ W long.;
(3) 43°14.03′ N lat., 124°28.31′ W long.;
(4) 43°11.92′ N lat., 124°28.26′ W long.;
(5) 43°11.02′ N lat., 124°29.11′ W long.;
(6) 43°10.13′ N lat., 124°29.15′ W long.;
(7) 43°09.26′ N lat., 124°31.03′ W long.;
(8) 43°08.60′ N lat., 124°30.98′ W long.;
(9) 43°10.22′ N lat., 124°37.82′ W long.;
(10) 43°16.91′ N lat., 124°37.50′ W long.;
(11) 43°16.51′ N lat., 124°28.97′ W long.;
(12) 43°16.88′ N lat., 124°28.16′ W long.; and
(13) 43°16.24′ N lat., 124°27.66′ W long.

* * * * *

(r) *Bandon High Spot East.* The boundary of the Bandon High Spot East EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 42°57.18′ N lat., 124°46.01′ W long.:
(1) 42°57.18′ N lat., 124°46.01′ W long.;
(2) 42°56.10′ N lat., 124°47.48′ W long.;
(3) 42°56.66′ N lat., 124°48.79′ W long.;
(4) 42°55.02′ N lat., 124°50.45′ W long.;
(5) 42°55.70′ N lat., 124°52.79′ W long.;
(6) 43°03.91′ N lat., 124°50.81 W long.;
(7) 43°03.70′ N lat., 124°47.91′ W long.;
(8) 43°03.20′ N lat., 124°47.52′ W long.;
(9) 43°00.94′ N lat., 124°46.57′ W long.; and
(10) 42°57.18′ N lat., 124°46.01′ W long.

* * * * *

■ 14. In § 660.79, revise paragraphs (yy) introductory text and (zz) introductory text to read as follows:

§ 660.79 EHFCAs off the Coast of California.

* * * * *

(yy) *Potato Bank.* The boundary of the Potato Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 33°11.00′ N lat., 119°55.67′ W long.:

* * * * *

(zz) *Cherry Bank.* The Cherry Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated and connecting back to 32°59.00′ N lat., 119°32.05′ W long.:

* * * * *

Subpart D [Amended]

■ 15. In subpart D of part 660, revise all references to ''Cordell Banks'' to read ''Cordell Bank''.

Subpart E [Amended]

■ 16. In subpart E of part 660, revise all references to ''Cordell Banks'' to read ''Cordell Bank''.

■ 17. In § 660.212, add paragraph (c)(3) to read as follows:

§ 660.212 Fixed gear fishery—prohibitions.

* * * * *

(c) * * *

(3) Fish inside the nontrawl RCA with any gear type other than those specified at § 660.230(b)(6). In addition, a vessel may not carry more than one gear type as specified at § 660.230(b)(6) on board

while declared to fish inside the nontrawl RCA (see § 660.13(d)(4)(iv)(A) for valid declarations for use inside the nontrawl RCA).

* * * * *

■ 18. Amend § 660.230 by:
■ a. Revising paragraph (a);
■ b. Adding paragraph (b)(6);
■ c. Revising paragraphs (d)(5) through (13); and
■ d. Adding new paragraphs (d)(14) through (17).

The additions and revisions read as follows:

§ 660.230 Fixed gear fishery—management measures.

(a) *General.* Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 2 (North) and 2 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in Tables 2 (North) and 2 (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(17) of this section and § 660.70). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing tier limits for the limited entry, fixed gear sablefish primary season north of 36°N lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.230(e). The trip limits in Table 2 (North) and Table 2 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded.

(b) * * *

(6) Gear for use in the Nontrawl RCA. Inside the nontrawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the limited entry fixed gear sector as defined at § 660.11. On a fishing trip where any fishing will occur inside the nontrawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the nontrawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear means stationary vertical jig gear not anchored to the bottom and groundfish troll gear, subject to the specifications in paragraphs (b)(6)(i) and (ii) of this section.

(i) *Stationary vertical jig gear.* The following requirements apply to stationary vertical jig gear:

(A) Must be a minimum of 30 feet (9 m) between the bottom weight and the lowest fishing hook;

(B) No more than 4 vertical mainlines attached to or fished from the vessel (*e.g.,* rod and reel) may be used in the water at one time with no more than 25 hooks on each mainline;

(C) No more than 100 hooks may be in the water at one time, with no more than 25 extra hooks on board the vessel.

(ii) *Groundfish troll gear.* The following requirements apply to groundfish troll gear:

(A) Must be a minimum of 50 feet (15 m) between the bottom weight and the troll wire's connection to the horizontal mainline;

(B) No more than one mainline attached to or fished form the vessel may be used in the water at one time;

(C) No more than 500 hooks may be in the water at one time, with no more than 25 extra hooks on board the vessel;

(D) Hooks must be spaced apart by a visible maker (*e.g.,* floats, line wraps, colored line splices), with no more than 25 hooks between each marker and no more than 20 markers on the mainline; and

(E) Natural bait or weighted hooks may not be used nor be on board the vessel. Artificial lures and bait are permitted.

* * * * *

(d) * * *

(5) *Tillamook YRCA.* The latitude and longitude coordinates that define the Tillamook YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Tillamook YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Tillamook YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry fixed gear vessels may transit through the Tillamook YRCA at any time, with or without groundfish on board.

(6) *Newport YRCA.* The latitude and longitude coordinates that define the Newport YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Newport YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Newport YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry fixed gear vessels may transit through the Newport YRCA at any time, with or without groundfish on board.

(7) *Florence YRCA.* The latitude and longitude coordinates that define the Florence YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Florence YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Florence YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry fixed gear vessels may transit through the Florence YRCA at any time, with or without groundfish on board.

(8) *Heceta Bank YRCA.* The latitude and longitude coordinates that define the Heceta Bank YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Heceta Bank YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Heceta Bank YRCA on dates when the closure is in effect. The closure is currently in effect. This closure may be modified through inseason adjustment. Limited entry fixed gear vessels may transit through the Heceta Bank YRCA at any time, with or without groundfish on board.

(9) *Point St. George YRCA.* The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment.

Limited entry fixed gear vessels may transit through the Point St. George YRCA, at any time, with or without groundfish on board.

(10) *South Reef YRCA.* The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(11) *Reading Rock YRCA.* The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(12) *Point Delgada (North) YRCA.* The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Point Delgada (North) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(13) *Point Delgada (South) YRCA.* The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry fixed gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry fixed gear vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

(14) *Nontrawl Rockfish Conservation Area (RCA).* The nontrawl RCA is defined at § 660.11 and with latitude and longitude coordinates, at §§ 660.71 through 660.74 *or the EEZ,* where fishing for groundfish with nontrawl gear is prohibited. Boundaries for the nontrawl RCA throughout the year are provided in the header to Table 2 (North) and Table 2 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c).

(i) It is unlawful to operate a vessel with limited entry nontrawl gear in the nontrawl RCA, except for the purpose of continuous transit, or when the use of limited entry nontrawl gear is authorized in this section. It is unlawful to take and retain, possess, or land groundfish taken with limited entry nontrawl gear within the nontrawl RCA, unless otherwise authorized in this section.

(ii) Limited entry nontrawl vessels may transit through the nontrawl RCA, with or without groundfish on board, provided all groundfish nontrawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The nontrawl RCA restrictions in this section apply to vessels registered to limited entry fixed gear permits fishing for species other than groundfish with nontrawl gear on trips where groundfish species are retained. Unless otherwise authorized in this section, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the nontrawl RCA. If a vessel fishes in a non-groundfish fishery in the nontrawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the nontrawl RCA. [For example, if a vessel fishes in the salmon troll fishery within the RCA, the vessel cannot on the same trip fish in the sablefish fishery outside of the RCA.]

(iv) It is lawful to fish within the nontrawl RCA with limited entry fixed gear using hook and line gear only when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

(v) It is lawful to fish within the nontrawl RCA under the limited entry fixed gear trip limits specified in Table 2 (North) and Table 2 (South) of this subpart only when using the non-bottom contact hook-and-line gear types described at § 660.230(b)(6), and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

(15) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for ''other flatfish'' is allowed around the Farallon Islands using hook and line gear only. (See Table 2 (South) of this subpart.) For a definition of the Farallon Islands, see § 660.70, subpart C.

(16) *Cordell Bank.* Commercial fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Bank, as defined by specific latitude and longitude coordinates at § 660.70, subpart C. An exception to this prohibition is that commercial fishing for ''other flatfish'' is allowed around Cordell Bank using hook and line gear only.

(17) *Groundfish exclusion areas (GEAs).* The GEAs are closed areas in the Southern California Bight, defined by specific latitude and longitude coordinates (specified at § 660.70) where commercial and recreational fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. All fishing gear for targeting groundfish must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

* * * * *

■ 19. In § 660 Subpart E, revise Table 2 North and Table 2 South to read as follows:

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Section 660 Subpart E Table 2 North and Table 2 South

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/1/2024

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N lat.		Shoreward EEZ - 100 fm line[1/]					
2	46°16' N lat. - 42°00' N lat.		30 fm line[1/] - 75 fm line[1/]					
3	42°00' N lat. - 40°10' N lat.		Shoreward EEZ - 75 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).								
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		8,000 lb/ 2 months					
4	**Pacific ocean perch**		3,600 lb/ 2 months					
5	**Sablefish**		4,500 lb/ week, not to exceed 9,000 lb /2 months					
6	**Longspine thornyhead**		10,000 lb/ 2 months					
7	**Shortspine thornyhead**		2,000 lb/ 2 months			2,500 lb/ 2 months		
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder**		10,000 lb/ month					
9	**Other Flatfish[3/]**							
10		North of 42°00' N lat.	10,000 lb/ month					
11		42°00' N lat. - 40°10' N lat.	10,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
12	**Whiting**		10,000 lb/ trip					
13	**Minor Shelf Rockfish[2/]**		800 lb/ month					
14	**Widow rockfish**		4,000 lb/ 2 months					
15	**Yellowtail rockfish**		3,000 lb/ month					
16	**Canary rockfish**		3,000 lb/ 2 months					
17	**Yelloweye rockfish**		CLOSED					
18	**Quillback rockfish**							
19		42°00' N lat. - 40°10' N lat.	0 lb/ 2 months					
20	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish, & black rockfish[4/]**							
21		North of 42°00' N lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[3/]					
22		42°00' N lat. - 40°10' N lat. Minor Nearshore Rockfish	0 lb/ 2 months					
23		42°00' N lat. - 40°10' N lat. Black Rockfish	0 lb/ 2 months					
24	**Lingcod[5/]**							
25		North of 42°00' N lat.	11,000 lb/ 2 months					
26		42°00' N lat. - 40°10' N lat.	2,000 lb/ 2 months seaward of the non-trawl RCA; 0 lb/ 2 months inside the non-trawl RCA					
27	**Pacific cod**		1,000 lb/ 2 months					
28	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
29	**Longnose skate**		Unlimited					
30	**Other Fish[6/]**		Unlimited					
31	**Cabezon in California**		0 lb/ 2 months					
32	**Oregon Cabezon/Kelp Greenling**		Unlimited					
33	**Big skate**		Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by the EEZ (exclusive economic zone, *i.e.* , federal waters from 3-200 nautical miles from shore) or lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. LEFG vessels may be allowed to fish inside groundfish conservation areas using non-bottom contact hook and line only. See § 660.230 (d) of the regulations for more information.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N lat.), and between Destruction Is. (47°40' N lat.) and Leadbetter Pnt. (46°38.17' N lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N lat. and 22 inches (56 cm) total length South of 42° N lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N lat.
Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/1/2024

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N lat. - 36°00' N lat.		Shoreward EEZ[1/] - 75 fm line[1/]					
2	36°00' N lat. - 34°27' N lat.		50 fm line[1/] - 75 fm line[1/]					
3	South of 34°27' N lat.		100 fm line[1/] - 150 fm line[1/] (also applies around islands and banks)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).							
4	**Minor Slope rockfish[2/] & Darkblotched rockfish**		40,000 lb/ 2 months, of which no more than 6,000 lb may be blackgill rockfish					
5	**Splitnose rockfish**		40,000 lb/ 2 months					
6	**Sablefish**							
7		40°10' N lat. - 36°00' N lat.	4,500 lb/ week, not to exceed 9,000 lb /2 months					
8		South of 36°00' N lat.	2,500 lb/ week					
9	**Longspine thornyhead**		10,000 lb/ 2 months					
10	**Shortspine thornyhead**							
11		40°10' N lat. - 34°27' N lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
12		South of 34°27' N lat.	3,000 lb/ 2 months					
13	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder**		10,000 lb/ month					
14	**Other Flatfish[3/]**							
15		40°10' N lat. - 36°00' N lat.	10,000 lb/ month					
16		South of 36°00' N lat.	10,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
17	**Whiting**		10,000 lb/ trip					
18	**Minor Shelf Rockfish[2/]**							
19		40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months, of which no more than 500 lb may be vermilion					
20		South of 34°27' N lat.	6,000 lb/ 2 months, of which no more than 3,000 lb may be vermilion					
21	**Widow rockfish**							
22		40°10' N lat. - 34°27' N lat.	10,000 lb/ 2 months					
23		South of 34°27' N lat.	8,000 lb/ 2 months					
24	**Chilipepper rockfish**							
25		40°10' N lat. - 34°27' N lat.	10,000 lb. / 2 months					
26		South of 34°27' N lat.	8,000 lb. / 2 months					
27	**Canary rockfish**		3,500 lb/ 2 months					
28	**Yelloweye rockfish**		CLOSED					
29	**Quillback rockfish**		0 lb/ 2 months					
30	**Cowcod**		CLOSED					
31	**Bronzespotted rockfish**		CLOSED					
32	**Bocaccio**		8,000 lb/ 2 months					
33	**Minor Nearshore Rockfish**							
34	40°10' N lat. - 36° N lat. Shallow nearshore[4/]		0 lb/ 2 months					
35	South of 36° N lat. Shallow nearshore[4/]		2,000 lb/ 2 months					
36	40°10' N lat. - 36° N lat. Deeper nearshore[5/]		0 lb/ 2 months					
37	South of 36° N lat. Deeper nearshore[5/]		2,000 lb/ 2 months, of which no more than 75 lb may be copper rockfish					
38	**California Scorpionfish**		3,500 lb/ 2 months					
39	**Lingcod[6/]**							
40		40°10' N lat. - 36° N lat.	1,600 lb / 2 months seaward of the non-trawl RCA; 0 lb / 2 months inside the non-trawl RCA					
41		South of 36° N lat.	1,600 lb / 2 months					
42	**Pacific cod**		1,000 lb/ 2 months					
43	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
44	**Longnose skate**		Unlimited					
45	**Other Fish[7/]**		0 lb / 2 months					
46	**Cabezon in California**							
47	40°10' N lat. - 36° N lat.		0 lb/ 2 months					
48	South of 36° N lat.		Unlimited					
49	**Big Skate**		Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. LEFG vessels may be allowed to fish inside groundfish conservation areas using non-bottom contact hook and line only. See § 660.230 (d) of the regulations for more information.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Pacific ocean perch is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 22 inches (56 cm) total length South of 42° N lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3510–22–C

Subpart F [Amended]

■ 20. In subpart F of part 660, revise all references to ''Cordell Banks'' to read ''Cordell Bank''.

■ 21. In § 660.312, revise paragraph (d)(7) and add paragraph (d)(8) to read as follows:

§ 660.312 Open access fishery—prohibitions.

* * * * *

(d) * * *

(7) Fish with bottom trawl gear (defined at § 660.11), other than demersal seine, unless otherwise specified in this section or § 660.330, within the EEZ in the following EFHCAs (defined at § 660.79): Brush Patch, Trinidad Canyon, Mad River Rough Patch, Samoa Deepwater, Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Navarro Canyon, Point Arena North, Point Arena South Biogenic Area, the Football, Gobbler's Knob, Point Reyes Reef, Cordell Bank/Biogenic Area,

Rittenburg Bank, Farallon Islands/Fanny Shoal/Cochrane Bank, Farallon Escarpment, Half Moon Bay, Pescadero Reef, Pigeon Point Reef, Ascension Canyonhead, South of Davenport, Monterey Bay/Canyon, West of Sobranes Point, Point Sur Deep, Big Sur Coast/Port San Luis, La Cruz Canyon, West of Piedras Blancas State Marine Conservation Area, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank, Catalina Island, Potato Bank, Cherry Bank, Cowcod EFHCA East, and Southern California Bight.

(8) Fish inside the nontrawl RCA with any gear type other than those specified at § 660.330(b)(3). In addition, a vessel may not carry more than one gear type as specified at § 660.330(b)(3) on board while declared to fish inside the nontrawl RCA (see § 660.13(d)(4)(iv)(A) for valid declarations for use inside the nontrawl RCA).

■ 22. Amend § 660.330 by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (b)(3) introductory text;
■ c. Revising paragraphs (b)(3)(i)(A) and (B);
■ d. Removing paragraph (b)(3)(i)(D);
■ e. Revising paragraph (b)(3)(ii)(B);
■ f. Revising paragraphs (d)(5) through (15); and
■ g. Adding new paragraphs (d)(16) through (19).

The revisions and additions read as follows:

§ 660.330 Open access fishery—management measures.

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in Tables 3 (North) and 3 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(15) of this section and § 660.70). Retention of yelloweye rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 of this subpart and the trip limits in Tables 3 (North) and 3 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies (see paragraph I of this section). Open access vessels that fish with non-groundfish trawl gear or in the salmon troll fishery north of 40°10′ N lat. are subject the cumulative limits and closed areas (except the pink shrimp fishery which is not subject to RCA restrictions) listed in Tables 3 (North) and 3 (South) of this subpart.

(b) * * *

(3) *Gear for use inside the Nontrawl RCA.* Inside the nontrawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the open access sector as defined at § 660.11. On a fishing trip where any fishing will occur inside the nontrawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the nontrawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear means stationary vertical jig gear not anchored to the bottom and groundfish troll gear, subject to the specifications in paragraphs (b)(6)(i) and (ii) of this section.

(i) * * *

(A) Must be a minimum of 30 feet (9 m) between the bottom weight and the lowest fishing hook;

(B) No more than 4 vertical mainlines attached to or fished from the vessel (*e.g.,* rod & reel) may be used in the water at one time with no more than 25 hooks on each mainline;

* * * * *

(ii) * * *

(B) No more than one mainline attached to or fished from the vessel may be used in the water at one time;

* * * * *

(d) * * *

(5) *Tillamook YRCA.* The latitude and longitude coordinates of the Tillamook YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Tillamook YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Tillamook YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access vessels may transit through the Tillamook YRCA, at any time, with or without groundfish on board.

(6) *Newport YRCA.* The latitude and longitude coordinates of the Newport YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Newport YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Newport YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access vessels may transit through the Newport YRCA, at any time, with or without groundfish on board.

(7) *Florence YRCA.* The latitude and longitude coordinates of the Florence YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Florence YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Florence YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access vessels may transit through the Florence YRCA, at any time, with or without groundfish on board.

(8) *Heceta Bank YRCA.* The latitude and longitude coordinates of the Heceta Bank YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Heceta Bank YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Heceta Bank YRCA, on dates when the closure is in effect. The closure is in effect at this time. This closure may be imposed through inseason adjustment. Open access vessels may transit through the Heceta Bank YRCA, at any time, with or without groundfish on board.

(9) *Point St. George YRCA.* The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access vessels may transit through

the Point St. George YRCA, at any time, with or without groundfish on board.

(10) *South Reef YRCA.* The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(11) *Reading Rock YRCA.* The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(12) *Point Delgada (North) YRCA.* The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Point Delgada (North) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(13) *Point Delgada (South) YRCA.* The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.70, subpart C. Fishing with open access gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Open access gear vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

(14) *Salmon Troll Yelloweye Rockfish Conservation Area (YRCA).* The latitude and longitude coordinates of the Salmon Troll YRCA boundaries are specified in the groundfish regulations at § 660.70, subpart C, and in the salmon regulations at § 660.405. Fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish taken with salmon troll gear within the Salmon Troll YRCA. Open access vessels may transit through the Salmon Troll YRCA with or without fish on board.

(15) *Nontrawl rockfish conservation area for the open access fisheries.* The nontrawl RCA is defined at § 660.11 and with latitude and longitude coordinates, at §§ 660.70 through 660.74 or the EEZ, where fishing for groundfish with nontrawl gear is prohibited. Boundaries for the nontrawl RCA throughout the year are provided in the header to Table 3 (North) and Table 3 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c).

(i) It is unlawful to operate a vessel in the nontrawl RCA that has nontrawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, or land groundfish taken in the EEZ, except for the purpose of continuous transiting, or when the use of nontrawl gear is authorized in part 660.

(ii) On any trip on which a groundfish species is taken with nontrawl open access gear and retained, the open access nontrawl vessel may transit through the nontrawl RCA only if all groundfish nontrawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The nontrawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the nontrawl RCA. If a vessel fishes in a non-groundfish fishery in the nontrawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the nontrawl RCA. [For example, if a vessel fishes in the salmon troll fishery within the RCA, the vessel cannot on the same trip fish in the sablefish fishery outside of the RCA.]

(iv) Fishing for ''other flatfish'' off California (between 42° N lat. south to the U.S./Mexico border) is allowed within the nontrawl RCA with hook and line gear only; and provided a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE.

(v) Target fishing for groundfish off Oregon and California (between 46°16′ N lat. and the U.S./Mexico border) is allowed within the nontrawl RCA for vessels participating in the directed open access sector as defined at § 660.11, subject to the gear restrictions at § 660.330(b)(3)(i–ii), and provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE.

(16) *Non-groundfish trawl rockfish conservation areas for the open access non-groundfish trawl fisheries.* The non-groundfish trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.70 through 660.74, subpart C) designed to approximate specific depth contours, where fishing for groundfish with nontrawl gear is prohibited. Boundaries for the nontrawl RCA throughout the year are provided in the open access trip limit tables, Table 3 (North) and Table 3 (South) of this subpart and may be modified by NMFS in season pursuant to § 660.60(c).

(i) It is unlawful to operate a vessel in the non-groundfish trawl RCA with non-groundfish trawl gear onboard, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in part 660. It is unlawful to take and retain, possess, or land groundfish taken with non-groundfish trawl gear within the nontrawl RCA, unless otherwise authorized in part 660.

(ii) Non-groundfish trawl vessels may transit through the non-groundfish trawl RCA, with or without groundfish on board, provided all non-groundfish trawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

(iii) The non-groundfish trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by part 660, it is unlawful for a vessel to retain any groundfish taken on a fishing trip for species other than groundfish that

occurs within the non-groundfish trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited within the non-groundfish trawl RCA. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(iv) It is lawful to fish with non-groundfish trawl gear within the non-groundfish trawl RCA only under the following conditions:

(A) Pink shrimp trawling is permitted in the non-groundfish trawl RCA when a valid declaration report as required at § 660.12(d), subpart C, has been filed with NMFS OLE. Groundfish caught with pink shrimp trawl gear may be retained anywhere in the EEZ and are subject to the limits in Table 3 (North) and Table 3 (South) of this subpart.

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), vessels using ridgeback prawn trawl gear south of 34°27.00′ N lat. may operate out to the 100 fm (183 m) boundary line specified at § 660.73, when a valid declaration report as required at § 660.13(d), has been filed with NMFS OLE. Groundfish caught with ridgeback prawn trawl gear are subject to the limits in Table 3 (North) and Table 3 (South) of this subpart.

(17) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for ''other flatfish'' is allowed around the Farallon Islands using hook and line gear only. (See Table 3 (South) of this subpart). For a definition of the Farallon Islands, see § 660.70, subpart C.

(18) *Cordell Bank.* Commercial fishing for groundfish is prohibited in waters of depths less than 100-fm (183-m) around Cordell Bank, as defined by specific latitude and longitude coordinates at § 660.70, subpart C. An exception to this prohibition is that commercial fishing for ''other flatfish'' is allowed around Cordell Bank using hook and line gear only.

(19) *Groundfish exclusion areas (GEAs).* The GEAs are closed areas in the Southern California Bight, defined by specific latitude and longitude coordinates (specified at § 660.70) where commercial and recreational fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. All fishing gear for targeting groundfish must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

* * * * *

■ 23. In § 660 Subpart F, revise Table 3 North and Table 3 South to read as follows:

Section 660 Subpart F Table 3 North and Table 3 South

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Table 3 (North) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears North of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table

1/1/2024

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	North of 46°16' N lat.		Shoreward EEZ - 100 fm line[1/]					
2	46°16' N lat. - 42°00' N lat.		30 fm line[1/] - 75 fm line[1/]					
3	42°00' N lat. - 40°10' N lat.		Shoreward EEZ - 75 fm line[1/]					
	See §§660.60, 660.330 and 660.333 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		2,000 lb/ month					
5	**Pacific ocean perch**		100 lb/ month					
6	**Sablefish**		3,000 lb/ week, not to exceed 6,000 lb/ 2 months					
7	**Shortpine thornyheads**		50 lb/ month					
8	**Longspine thornyheads**		50 lb/ month					
9	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder[7/]**		5,000 lb/ month					
10	**Other Flatfish[3/]**							
11		North of 42°00' N lat.	5,000 lb/ month					
12		42°00' N lat. - 40°10' N lat.	5,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
13	**Whiting**		300 lb/ month					
14	**Minor Shelf Rockfish[2/]**							
15		North of 42°00' N lat.	800 lb/ month					
16		42°00' N lat. - 40°10' N lat.	600 lb/month					
17	**Widow rockfish**		2,000 lb/ 2 months					
18	**Yellowtail rockfish**		1,500 lb/month					
19	**Canary rockfish**		1,000 lb/ 2 months					
20	**Yelloweye rockfish**		CLOSED					
21	**Quillback rockfish**							
22		42°00' N lat. - 40°10' N lat.	0 lb/ 2 months					
23	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish, & black rockfish**							
24		North of 42°00' N lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[4/]					
25		42°00' N lat. - 40°10' N lat. Minor Nearshore Rockfish	0 lb/ 2 months					
26		42°00' N lat. - 40°10' N lat. Black rockfish	0 lb/ 2 months					
27	**Lingcod[5/]**							
28		North of 42°00' N lat.	5,500 lb/ month					
29		42°00' N lat. - 40°10' N lat.	1,000 lb/ month seaward of the non-trawl RCA; 0 lb/ month inside the non-trawl RCA					
30	**Pacific cod**		1,000 lb/ 2 months					
31	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
32	**Longnose skate**		Unlimited					
33	**Big skate**		Unlimited					
34	**Other Fish[6/]**		Unlimited					
35	**Cabezon in California**		0 lb/ 2 months					
36	**Oregon Cabezon/Kelp Greenling**		Unlimited					
37	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish and lingcod, as described below)*							
38	North		Salmon trollers may retain and land up to 500 lb of yellowtail rockfish per month as long as salmon is on board, both within and outside of the RCA. Salmon trollers may retain and land up to 1 lingcod per 2 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the RCA. The lingcod limit only applies during times when lingcod retention is allowed, and is not "CLOSED." Theses limits are within the per month limits described in the table above, and not in addition to those limits. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
39	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*							
40	North		Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

TABLE 3 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by the EEZ (exclusive economic zone, *i.e.*, federal waters from 3-200 nautical miles from shore) or lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. Open access vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.330 (d) of the regulations for more information.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N lat.), and between Destruction Is. (47°40' N lat.) and Leadbetter Pnt. (46°38.17' N lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N lat. and 22 inches (56 cm) South of 42° N lat.

6/ "Other fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

7/ Open access vessels may be allowed to fish inside groundfish conservation areas using hook and line only. See § 660.330 (d) of the regulations for more information.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart F -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Open Access Gears South of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/1/2024

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:							
1	40°10' N lat. - 36°00' N lat.		Shoreward EEZ[1/] - 75 fm line[1/]					
2	36°00' N lat. - 34°27' N lat.		50 fm line[1/] - 75 fm line[1/]					
3	South of 34°27' N lat.		100 fm line[1/] - 150 fm line[1/] (also applies around islands and banks)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).							
4	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		10,000 lb/ 2 months, of which no more than 2,500 lb may be blackgill rockfish					
5	**Splitnose rockfish**		200 lb/ month					
6	**Sablefish**							
7		40°10' N lat. - 36°00' N lat.	3,000 lb/ week, not to exceed 6,000 lb/ 2 months					
8		South of 36°00' N lat.	2,000 lb/ week, not to exceed 6,000 lb/ 2 months					
9	**Shortpine thornyheads**							
10		40°10' N lat. - 34°27' N lat.	50 lb/ month					
11	**Longspine thornyheads**							
12		40°10' N lat. - 34°27' N lat.	50 lb/ month					
13	**Shortpine thornyheads and longspine thornyheads**							
14		South of 34°27' N lat.	100 lb/ day, no more than 1,000 lb/ 2 months					
15	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder, Other Flatfish[3/8/]**		5,000 lb/ month					
16	**Other Flatfish[3/]**							
17		40°10' N lat. - 36°00' N lat.	5,000 lb/ month					
18		South of 36°00' N lat.	5,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
19	**Whiting**		300 lb/ month					
20	**Minor Shelf Rockfish[2/]**							
21		40°10' N lat. - 34°27' N lat.	3,000 lb/ 2 months, of which no more than 300 lb may be vermilion/sunset					
22		South of 34°27' N lat.	3,000 lb/ 2 months, of which no more than 900 lb may be vermilion/sunset					
23	**Widow rockfish**							
24		40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months					
25		South of 34°27' N lat.	4,000 lb/ 2 months					
26	**Chilipepper rockfish**							
27		40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months					
28		South of 34°27' N lat.	4,000 lb/ 2 months					
29	**Canary rockfish**		1,500 lb/ 2 months					
30	**Yelloweye rockfish**		CLOSED					
31	**Cowcod**		CLOSED					
32	**Bronzespotted rockfish**		CLOSED					
33	**Quillback rockfish**		0 lb/ 2 months					
34	**Bocaccio**		6,000 lb/ 2 months					
35	**Minor Nearshore Rockfish**							
36	40°10' N lat. - 36°00' N lat. Shallow nearshore[4/]		0 lb/ 2 months					
37	South of 36°00' N lat. Shallow nearshore[4/]		2,000 lb/ 2 months					
38	40°10' N lat. - 36°00' N lat. Deeper nearshore[5/]		0 lb/ 2 months					
39	South of 36°00' N lat. Deeper nearshore[5/]		2,000 lb/ 2 months, of which no more than 75 lb may be copper rockfish					
40	**California Scorpionfish**		3,500 lb/ 2 months					
41	**Lingcod[6/]**							
42		40°10' N lat. - 36°00' N lat.	700 lb / month seaward of the non-trawl RCA; 0 lb/ month inside the non-trawl RCA					
43		South of 36°00' N lat.	700 lb / month					
44	**Pacific cod**		1,000 lb/ 2 months					
45	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months		100,000 lb/ 2 months	
46	**Longnose skate**		Unlimited					
47	**Big skate**		Unlimited					
48	**Other Fish[7/]**		Unlimited					
49	**Cabezon in California**							
50		40°10' N lat. - 36°00' N lat.	0 lb/ month					
51		South of 36°00' N lat.	Unlimited					

TABLE 3 (South)

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/1/2024

			JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:								
1	North of 46°16' N lat.		Shoreward EEZ - 100 fm line[1/]					
2	46°16' N lat. - 42°00' N lat.		30 fm line[1/] - 75 fm line[1/]					
3	42°00' N lat. - 40°10' N lat.		Shoreward EEZ - 75 fm line[1/]					
See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).								
3	**Minor Slope Rockfish[2/] & Darkblotched rockfish**		8,000 lb/ 2 months					
4	**Pacific ocean perch**		3,600 lb/ 2 months					
5	**Sablefish**		4,500 lb/ week, not to exceed 9,000 lb /2 months					
6	**Longspine thornyhead**		10,000 lb/ 2 months					
7	**Shortspine thornyhead**		2,000 lb/ 2 months			2,500 lb/ 2 months		
8	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder**		10,000 lb/ month					
9	**Other Flatfish[3/]**							
10		North of 42°00' N lat.	10,000 lb/ month					
11		42°00' N lat. - 40°10' N lat.	10,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
12	**Whiting**		10,000 lb/ trip					
13	**Minor Shelf Rockfish[2/]**		800 lb/ month					
14	**Widow rockfish**		4,000 lb/ 2 months					
15	**Yellowtail rockfish**		3,000 lb/ month					
16	**Canary rockfish**		3,000 lb/ 2 months					
17	**Yelloweye rockfish**		CLOSED					
18	**Quillback rockfish**							
19		42°00' N lat. - 40°10' N lat.	0 lb/ 2 months					
20	**Minor Nearshore Rockfish, Oregon black/blue/deacon rockfish, & black rockfish[4/]**							
21		North of 42°00' N lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish[3/]					
22		42°00' N lat. - 40°10' N lat. Minor Nearshore Rockfish	0 lb/ 2 months					
23		42°00' N lat. - 40°10' N lat. Black Rockfish	0 lb/ 2 months					
24	**Lingcod[5/]**							
25		North of 42°00' N lat.	11,000 lb/ 2 months					
26		42°00' N lat. - 40°10' N lat.	2,000 lb/ 2 months seaward of the non-trawl RCA; 0 lb/ 2 months inside the non-trawl RCA					
27	**Pacific cod**		1,000 lb/ 2 months					
28	**Spiny dogfish**		200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
29	**Longnose skate**		Unlimited					
30	**Other Fish[6/]**		Unlimited					
31	**Cabezon in California**		0 lb/ 2 months					
32	**Oregon Cabezon/Kelp Greenling**		Unlimited					
33	**Big skate**		Unlimited					

TABLE 2 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by the EEZ (exclusive economic zone, *i.e.* , federal waters from 3-200 nautical miles from shore) or lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. LEFG vessels may be allowed to fish inside groundfish conservation areas using non-bottom contact hook and line only. See § 660.230 (d) of the regulations for more information.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Bocaccio, chilipepper and cowcod are included in the trip limits for Minor Shelf Rockfish. Splitnose rockfish is included in the trip limits for Minor Slope Rockfish.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ For black rockfish north of Cape Alava (48°09.50' N lat.), and between Destruction Is. (47°40' N lat.) and Leadbetter Pnt. (46°38.17' N lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

5/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N lat. and 22 inches (56 cm) total length South of 42° N lat.

6/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N lat.

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 1/1/2024

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
1	40°10' N lat. - 36°00' N lat.	Shoreward EEZ[1/] - 75 fm line[1/]					
2	36°00' N lat. - 34°27' N lat.	50 fm line[1/] - 75 fm line[1/]					
3	South of 34°27' N lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands and banks)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, Farallon Islands, Cordell Bank, and EFHCAs).						
4	**Minor Slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months, of which no more than 6,000 lb may be blackgill rockfish					
5	**Splitnose rockfish**	40,000 lb/ 2 months					
6	**Sablefish**						
7	40°10' N lat. - 36°00' N lat.	4,500 lb/ week, not to exceed 9,000 lb /2 months					
8	South of 36°00' N lat.	2,500 lb/ week					
9	**Longspine thornyhead**	10,000 lb/ 2 months					
10	**Shortspine thornyhead**						
11	40°10' N lat. - 34°27' N lat.	2,000 lb/ 2 months			2,500 lb/ 2 months		
12	South of 34°27' N lat.	3,000 lb/ 2 months					
13	**Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder**	10,000 lb/ month					
14	**Other Flatfish[3/]**						
15	40°10' N lat. - 36°00' N lat.	10,000 lb/ month					
16	South of 36°00' N lat.	10,000 lb/ month seaward of the non-trawl RCA; 0 lb/month inside the non-trawl RCA					
17	**Whiting**	10,000 lb/ trip					
18	**Minor Shelf Rockfish[2/]**						
19	40°10' N lat. - 34°27' N lat.	6,000 lb/ 2 months, of which no more than 500 lb may be vermilion					
20	South of 34°27' N lat.	6,000 lb/ 2 months, of which no more than 3,000 lb may be vermilion					
21	**Widow rockfish**						
22	40°10' N lat. - 34°27' N lat.	10,000 lb/ 2 months					
23	South of 34°27' N lat.	8,000 lb/ 2 months					
24	**Chilipepper rockfish**						
25	40°10' N lat. - 34°27' N lat.	10,000 lb. / 2 months					
26	South of 34°27' N lat.	8,000 lb. / 2 months					
27	**Canary rockfish**	3,500 lb/ 2 months					
28	**Yelloweye rockfish**	CLOSED					
29	**Quillback rockfish**	0 lb/ 2 months					
30	**Cowcod**	CLOSED					
31	**Bronzespotted rockfish**	CLOSED					
32	**Bocaccio**	8,000 lb/ 2 months					
33	**Minor Nearshore Rockfish**						
34	40°10' N lat. - 36° N lat. Shallow nearshore[4/]	0 lb/ 2 months					
35	South of 36° N lat. Shallow nearshore[4/]	2,000 lb/ 2 months					
36	40°10' N lat. - 36° N lat. Deeper nearshore[5/]	0 lb/ 2 months					
37	South of 36° N lat. Deeper nearshore[5/]	2,000 lb/ 2 months, of which no more than 75 lb may be copper rockfish					
38	**California Scorpionfish**	3,500 lb/ 2 months					
39	**Lingcod[6/]**						
40	40°10' N lat. - 36° N lat.	1,600 lb / 2 months seaward of the non-trawl RCA; 0 lb / 2 months inside the non-trawl RCA					
41	South of 36° N lat.	1,600 lb / 2 months					
42	**Pacific cod**	1,000 lb/ 2 months					
43	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
44	**Longnose skate**	Unlimited					
45	**Other Fish[7/]**	0 lb / 2 months					
46	**Cabezon in California**						
47	40°10' N lat. - 36° N lat.	0 lb/ 2 months					
48	South of 36° N lat.	Unlimited					
49	**Big Skate**	Unlimited					

TABLE 2 (South)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. LEFG vessels may be allowed to fish inside groundfish conservation areas using non-bottom contact hook and line only. See § 660.230 (d) of the regulations for more information.

2/ Minor Shelf and Slope Rockfish complexes are defined at § 660.11. Pacific ocean perch is included in the trip limits for Minor Slope Rockfish. Blackgill rockfish have a species specific trip sub-limit within the Minor Slope Rockfish cumulative limit. Yellowtail rockfish are included in the trip limits for Minor Shelf Rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other Flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*1*).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(*2*).

6/ The commercial mimimum size limit for lingcod is 22 inches (56 cm) total length South of 42° N lat.

7/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Subpart G [Amended]

■ 24. In subpart G of part 660, revise all references to ''Cordell Banks'' to read ''Cordell Bank''.

■ 25. Amend § 660.360 by revising paragraphs (c)(3)(i)(B) and (c)(3)(iv)(A) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) *Groundfish exclusion areas (GEAs).* The GEAs are closed areas in the Southern California Bight, defined by specific latitude and longitude coordinates (specified at § 660.70) where commercial and recreational fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. Recreational fishing gear for targeting groundfish may not be deployed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

* * * * *

(iv) * * *

(A) *Seasons.* Recreational fishing for ''Other Flatfish,'' petrale sole, and starry flounder is open from January 1 through

December 31. When recreational fishing for ''Other Flatfish,'' petrale sole, and starry flounder is open, it is permitted both outside and within the recreational RCAs described in paragraph (c)(3)(i) of this section.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231127–0277]

RIN 0648–BM03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 51

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 51 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, as prepared and submitted by the South Atlantic Fishery Management Council. For snowy grouper, this final rule revises the sector annual catch limits (ACLs), commercial seasonal quotas, recreational fishing season, and recreational accountability measures. In addition, Amendment 51 revises the overfishing limit for snowy grouper, the acceptable biological catch, annual optimum yield (OY), and sector allocations of the total ACL. The purpose of this final rule and Amendment 51 is to end overfishing of snowy grouper, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse economic impacts on fishing communities.

DATES: This final rule is effective January 2, 2024.

ADDRESSES: An electronic copy of Amendment 51, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/node/151366.*

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, telephone: 727–824–5305, or email: *rick.devictor@noaa.gov.*

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires that NMFS and the regional fishery management councils prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

On May 22, 2023, NMFS published a notice of availability for Amendment 51 and requested public comment (88 FR 32717). On May 30, 2023, NMFS published a proposed rule for Amendment 51 and requested public comment (88 FR 34460). NMFS approved Amendment 51 on August 17, 2023. The proposed rule and Amendment 51 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 51 and implemented by this final rule is described below.

All weights described in this final rule are in gutted weight.

In 2004, a stock assessment for snowy grouper was completed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 4), and NMFS determined that the stock was subject to overfishing and was overfished. As a result of that stock status, the final rule for Amendment 13C to the FMP implemented management measures to end overfishing (71 FR 55096, September 21, 2006), and Amendment 15A to the FMP established a rebuilding plan for the snowy grouper stock (73 FR 14942, March 20, 2008). The rebuilding plan year started in 2006 with a target time of 34 years to rebuild the snowy grouper stock.

The snowy grouper stock was assessed again in 2013 through SEDAR 36 and was determined to not be undergoing overfishing. Although the stock was overfished, it was rebuilding. In response to the assessment and a subsequent acceptable biological catch (ABC) recommendation by the Council's Scientific and Statistical Committee (SSC), management actions were implemented through the final rule for Regulatory Amendment 20 to the FMP (80 FR 43033, July 21, 2015). Regulatory Amendment 20 and its implementing final rule increased the ACL by setting it equal to the ABC and OY, increased the commercial trip limit to 200 lb (91 kg), and modified the recreational fishing season from the calendar year to May through August.

The most recent SEDAR stock assessment for South Atlantic snowy grouper (SEDAR 36 Update) was completed in 2021 and included data through 2018. The assessment used revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) based on the Fishing Effort Survey (FES). In 2018, the MRIP fully transitioned its estimation of recreational effort to the mail-based FES. Previous estimates of recreational catch for snowy grouper were made using MRIP's Coastal Household Telephone Survey (CHTS) phone call-based methodology. As explained in Amendment 51, total recreational fishing effort estimates generated from the MRIP–FES are different than those from the MRIP–CHTS and other earlier survey methods. This difference in estimates is because the MRIP–FES is designed to measure fishing activity more accurately, not because there was a sudden change in fishing effort. The MRIP–FES is considered a more reliable estimate of recreational effort by the Council's SSC, the Council, and NMFS, and more robust compared to the MRIP–CHTS method. The SSC reviewed the SEDAR 36 Update and found that the assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic snowy grouper stock remains overfished and is undergoing overfishing.

Following a notification from NMFS to a fishery management council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the fishery management council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. In a letter dated June 10, 2021, NMFS notified the Council that the snowy grouper stock is overfished and undergoing overfishing but continues to rebuild, and the Council subsequently

developed Amendment 51 in response to the results of SEDAR 36 Update.

In addition to the proposed revisions to the sector ACLs and seasonal commercial quotas, the Council determined that further modifications to snowy grouper management measures are needed to help constrain recreational harvest to the revised fishing levels in Amendment 51. This final rule reduces the length of the recreational fishing season and also adjusts the recreational accountability measures (AMs) to ensure they are effective at keeping recreational landings from exceeding the revised recreational ACL and correct for any ACL overages if they occur. The Council decided not to revise the current commercial trip limit or AMs, finding that those measures sufficiently ensured that the commercial harvest of snowy grouper is constrained to its ACL.

The Council determined that the actions in Amendment 51 would end overfishing of South Atlantic snowy grouper, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Management Measures Contained in This Final Rule

This final rule revises the total ACL and sector ACLs, seasonal commercial quotas, recreational fishing season, and the recreational AMs for snowy grouper in the South Atlantic exclusive economic zone (EEZ).

Total ACLs

As implemented through the final rule for Regulatory Amendment 20, the current total ACL and annual OY for snowy grouper are equal to the current ABC of 185,464 lb (84,125 kg). Amendment 51 revised the ABC, and set the ABC, ACL, and annual OY equal to each other.

This final rule revises the total ACL and annual OY equal to the recommended ABC of 119,654 lb (54,274 kg) for 2023; 121,272 lb (55,008 kg) for 2024; 122,889 lb (55,741 kg) for 2025; and 122,889 lb (55,741 kg), for 2026 and subsequent fishing years.

Amendment 51 sets the total ACL for snowy grouper for 2023, 2024, 2025, and in 2026, with the 2026 ACL in place for the subsequent fishing years. However, the ACL value for 2025 is identical to the ACL value for 2026. While NMFS is listing the ACL value for 2025 and 2026 in the **SUPPLEMENTARY INFORMATION** section of this final rule, in the regulations section of this final rule NMFS states the total and sector ACLs for snowy grouper in 2025 and subsequent fishing years without repeating the same ACL value for 2026.

Sector Allocations and ACLs

Amendment 51 revises the commercial and recreational allocations of the total ACL for snowy grouper. The current sector ACLs for snowy grouper are based on the commercial and recreational allocations of the total ACL at 83 percent and 17 percent, respectively, that were revised in Regulatory Amendment 20. These allocations were determined using average commercial and recreational landings from 1986 through 2005, which included estimates of recreational catch from the MRIP–CHTS method.

In Amendment 51, the Council recommended allocations using the average commercial and recreational landings from 1986 through 2005, but included the estimates of recreational catch during those years using the MRIP–FES method from the SEDAR 36 Update. The Council recommended new commercial and recreational allocations of 87.55 percent and 12.45 percent, respectively, which results in a shift of allocation of 4.55 percent from the recreational sector to the commercial sector. The Council reasoned that using average landings from 1986 through 2005 was more appropriate because it would exclude the more recent years that had depth and area closures that may have affected the allocation calculations and would achieve the most appropriate balance between the needs of both sectors. The Council acknowledged that because the snowy grouper portion of the snapper-grouper fishery operates primarily in deeper water and is therefore more difficult to access for recreational fishermen, when compared to snapper-grouper species in shallower water and closer to shore, the allocations between sectors have historically and consistently been much greater for the commercial sector. NMFS considers this allocation to be fair and equitable to fishery participants in both the commercial and recreational sectors, and would be carried out in such a manner that no particular individual, corporation, or other entity would acquire an excessive share. NMFS has determined that this allocation is also reasonably calculated to promote conservation and is a wise use of the resource, since it will remain within the boundaries of a total ACL that is based upon an ABC recommendation from the Council's SSC and incorporates the best scientific information available. NMFS acknowledges that the commercial sector would benefit from additional allocation, but considers the economic shifts to be relatively minor.

The commercial ACLs will be 104,757 lb (47,517 kg) for 2023; 106,174 lb (48,160 kg) for 2024; 107,589 lb (48,802 kg) for 2025; and 107,589 lb (48,802 kg) for 2026 and subsequent years.

The recreational ACLs will be 1,668 fish for 2023; 1,691 fish for 2024; 1,713 fish for 2025; and 1,713 fish for 2026 and subsequent years.

The commercial quota for snowy grouper is equivalent to the commercial ACL. Regulatory Amendment 27 to the FMP established two commercial fishing seasons for snowy grouper and divided the commercial quota between the seasons (85 FR 4588, January 27, 2020). Season 1 is from January through June with 70 percent of the commercial quota, and Season 2 is from July through December with 30 percent of the quota. Any commercial quota remaining from Season 1 is added to the commercial quota in Season 2, but any commercial quota remaining from Season 2 is not carried forward into the next fishing year. Amendment 51 and this final rule do not alter the current commercial fishing seasons or seasonal allocations of the commercial ACL.

Under Amendment 51, the commercial quotas in 2023 for Season 1 will be 73,330 lb (33,262 kg) and for Season 2 will be 31,427 lb (14,255 kg); in 2024, Season 1 will be 74,322 lb (33,712 kg) and Season 2 will be 31,852 lb (14,448 kg); in 2025, Season 1 will be 75,312 lb (34,161 kg) and Season 2 will be 32,277 lb (14,641 kg); and for 2026 and subsequent years, Season 1 will be 75,312 lb (34,161 kg) and Season 2 will be 32,277 lb (14,641 kg).

Recreational Fishing Season

Recreational harvest of snowy grouper is currently allowed from May 1 through August 31 each year. This final rule revises the recreational fishing season for snowy grouper where harvest will be allowed only from May 1 through June 30. The recreational sector will be closed annually from January 1 through April 30, and from July 1 through December 31. During the seasonal closures, the recreational bag and possession limits for snowy grouper will be zero. Shortening the time recreational fishing is allowed will help to reduce the risk that recreational harvest will exceed its reduced sector ACL, while still allowing for retention of snowy grouper when recreational fishermen target co-occurring species, such as blueline tilefish, in some areas.

Recreational AMs

The current recreational AMs were implemented through the final rule for

Amendment 34 to the FMP (81 FR 3731, January 22, 2016). The AMs for snowy grouper include an in-season closure for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACL, regardless of whether the stock is overfished. The AMs also include a post-season adjustment if recreational landings exceed the recreational ACL, and then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If the total ACL for snowy grouper is exceeded and the stock is overfished, the length of the recreational fishing season and the recreational ACL are reduced by the amount of the recreational ACL overage.

This final rule revises the recreational AMs for snowy grouper. Given the revised 2-month fishing season, the current in-season closure and stock status-based post-season AM is removed. The revised recreational AM is a post-season AM that would be triggered in the following fishing year if the recreational ACL was exceeded in the previous year. If recreational landings exceed the recreational ACL, NMFS would reduce the length of the recreational fishing season in the following year by the amount necessary to prevent the recreational ACL from being exceeded. However, the length of the recreational season would not be reduced if NMFS determines, using the best scientific information available, that a reduction is not necessary.

This revised recreational AM will avoid an in-season closure of the recreational sector and extend maximum fishing opportunities to the sector during the 2-month recreational season. This final rule removes the current potential duplicate AM application of a reduction in the recreational season length and a payback of the recreational ACL overage if the total ACL was exceeded. In addition, under the revised recreational AM, the AM trigger is not tied to the total ACL, but only to the recreational ACL. This modification ensures that an ACL overage in the recreational sector does not in turn affect the catch levels for the commercial sector. Any reduced recreational season length as a result of the AM being implemented would apply to the recreational fishing season in the year following a recreational ACL overage.

Management Measures in Amendment 51 That Would Not Be Codified by This Final Rule

In addition to the measures within this final rule, Amendment 51 revises the overfishing limit (OFL) for snowy grouper and sets the ACL equal to the ABC. The amendment also revises the annual OY and the sector allocations.

OFL, ABC, and Annual OY

The current ABC for snowy grouper was approved in Regulatory Amendment 20, based upon the previous stock assessment (SEDAR 36) and recommendations from the Council's SSC.

Based on the SEDAR 36 Update, the Council's SSC recommended new OFL and ABC levels, with the ABC reduced from the OFL; the Council accepted the recommendations. The assessment and associated OFL and ABC levels for snowy grouper incorporated the revised estimates for recreational catch and effort from the MRIP–FES. The SSC and NMFS determined that the new OFL and ABC recommendations within Amendment 51 also represent the best scientific information available. The Council chose to express OY for snowy grouper on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv).

Comments and Reponses

NMFS received comments from seven entities during the public comment periods for the notice of availability of Amendment 51 and the proposed rule. Six comment letters were in opposition to one or more actions within Amendment 51 or the proposed rule. One comment was outside the scope of this action and suggested that all marine life will soon be extinct if species continue to receive fishing pressure. NMFS did not respond to this comment. Comments specific to the actions in Amendment 51 and the proposed rule are grouped as appropriate and summarized below, each followed by NMFS' respective response. NMFS has not made any changes from the proposed rule to this final rule based on public comment.

Comment 1: The stock assessments are traditionally incorrect by underestimating the stock. The proposed reduction in the allowable snowy grouper catch limit and season are grossly restrictive. Based on observation in the Florida Keys area alone the population is thriving. The abundance of snowy grouper make catching other deep water species very difficult. The bottom line is that the assessment population data are flawed.

Response: NMFS disagrees that the stock assessment data for snowy grouper are flawed. The most recent SEDAR stock assessment for South Atlantic snowy grouper (SEDAR 36 Update) was completed in 2021 and included data through 2018. The findings of the assessment indicated that the South Atlantic snowy grouper stock remains overfished and is undergoing overfishing. Although NMFS recognizes that the abundance of snowy grouper varies across locations in the South Atlantic, snowy grouper is managed as a single stock in the South Atlantic, and the stock assessment, which used region-wide data, concluded that the overall stock is undergoing overfishing and is overfished. The Council's SSC and NMFS reviewed the stock assessment and determined that the SEDAR 36 Update is based on the best scientific information available. Following a notification from NMFS to a fishery management council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the fishery management council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. The Council and NMFS have determined that the actions in Amendment 51 would end overfishing of South Atlantic snowy grouper, continue to rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Comment 2: NMFS' conversion of snowy grouper from pounds to numbers of fish to set the recreational sector ACL also assumes a low average weight of 8.93 lb (4.1 kg) per fish in gutted weight that is not supported by the record. Other evidence in the records shows an average weight closer to or above 10 lb (4.5 kg). Pictures posted by anglers on social media sites routinely show snowy grouper of 15 to 40 lb (6.8 to 18.1 kg). At such low levels of harvest, a 10 percent variation makes a big difference. If the average gutted weight was actually 10 lb (4.5 kg), then the recreational sector ACL should be 1,490 fish, not 1,668 fish.

Response: NMFS disagrees that a different average weight should be used for snowy grouper. To support using a higher weight, the commenter supplied pictures of recreationally caught snowy grouper posted on social media, and referenced higher average weights stated in Regulatory Amendment 20 to the FMP and a two-page document that sets forth different options to estimate the average weight for snowy grouper. The average weight used for snowy grouper in Amendment 51 is based on information in the SEDAR 36 Update, which was subject to a rigorous and independent scientific review. The total ACL is in pounds of fish, and

recreational landings are reported in numbers of fish. To determine the recreational ACL, the pounds were converted to numbers of fish using an average weight of a snowy grouper. As explained in Amendment 51, an average weight of snowy grouper was determined from data used in the SEDAR 36 Update to be 8.93 lb, which was the average landed weight of snowy grouper from 2016 through 2018 as reported by recreational fishermen. NMFS acknowledges that different average weights for recreationally caught snowy grouper can vary using different methods or from other sources. However, NMFS determined that the SEDAR 36 Update, which used more recent data than what was used in support of Regulatory Amendment 20, and the 8.93-lb (4.1-kg) average weight for a snowy grouper in the recreational sector to be based on the best scientific information available.

Comment 3: The ACL for the recreational sector applies only to landings of snowy grouper and there is no limit on dead discards, dead discards are not tracked during the fishing season against a fixed limit, and there are no consequences if the recreational sector discards more fish than NMFS projects.

Response: Dead discards of snowy grouper were accounted for in establishing the recreational ACL for snowy grouper. Dead discards are fish that fishermen catch and then discard for various reasons, and that are dead or subsequently die soon after they are released. According to the SEDAR 36 Update, 95.4 percent of total removals of snowy grouper are landings and 4.6 percent are dead discards. The ABCs in Amendment 51 were derived from the SEDAR 36 Update, which accounted for dead discards and other sources of fish mortality. Since an ACL is directly calculated from an ABC, the recreational ACL for snowy grouper in Amendment 51 that was derived from the ABC did account for dead discards.

NMFS acknowledges that neither the recreational ACL nor the commercial ACL establish a limit on the amount of dead discards during a fishing season, and discards are not specifically tracked against a fixed limit during a fishing season for either the recreational sector or the commercial sector (see also the response to *Comment 10* regarding bycatch of snowy grouper). Section 303(a)(15) of the Magnuson-Stevens Act requires the FMP to include ACLs and AMs, and the National Standard 1 Guidelines define catch as including both landed fish and dead discards (50 CFR 600.310(f)(1)(i)). However, the National Standard 1 Guidelines also state that the ABC, on which the ACLs are based, may be expressed in terms of landings as long as estimates of bycatch and any other fishing mortality not accounted for in the landings are incorporated into the determination of ABC (50 CFR 600.310(f)(3)(i)). As explained in Amendment 51, the ABC was calculated to account for dead discards. Thus, the recreational ACL for snowy grouper meets the requirements of the Magnuson-Stevens Act.

Comment 4: There is no way of tracking to determine if the recreational ACL has been met and no possible way for NMFS to ensure that an ACL of 1,668 fish will be reached. There are no mandatory reporting requirements for private recreational anglers, even though NMFS estimates that private anglers account for roughly 30 to 75 percent of all snowy grouper landings in recent years. Management uncertainty is extremely high in the recreational sector.

Response: NMFS disagrees that Amendment 51 supports the characterization that private anglers account for roughly 30 to 75 percent of all snowy grouper landings. The recreational sector is comprised of private fishermen and for-hire fishermen (charter vessels and headboats). Amendment 51 at Table 4.1.2.1 (page 61) shows the commercial, recreational, and total landings for South Atlantic snowy grouper for each fishing year from 2015 to 2019, with the 5-year average landings of 142,812 lb (64,778 kg) for the commercial sector and 39,807 lb (18,056 kg) for the recreational sector. In addition, prior to Amendment 51, the recreational sector was allocated 17 percent of the total ACL, and Table 3.2.2 in Amendment 51 (page 30) indicates that in 4 of the 5 years from 2015 to 2019, the recreational sector did not harvest all of its ACL.

NMFS disagrees than it cannot determine whether the snowy grouper recreational ACL was reached. Recreational landings information for the private and charter fishermen are collected through the MRIP–FES program. MRIP–FES consists of an intercept survey conducted at public marine fishing access points and a mail-based survey which estimates recreational shore and private boat fishing effort. Federally permitted vessels selected to participate in the Southeast Region Headboat Survey are required to submit a trip report for each trip. NMFS uses the best data available from the MRIP–FES and headboat survey to track recreational landings and compare them to the recreational ACL.

Using the best scientific information available, NMFS will determine whether the recreational ACL was met or exceeded, and whether the length of the next season needs to be reduced to prevent recreational landings from exceeding the recreational ACL, in accordance with the new recreational AM. NMFS, the SSC, and the Council have determined that Amendment 51 is consistent with the Magnuson-Stevens Act and its National Standards, and that the landings estimates from the MRIP–FES and headboat survey represent the best scientific information available. This determination is supported by an April 14, 2023, memorandum from the NMFS Southeast Fisheries Science Center as well as the recommendations from the Council's SSC.

Comment 5: Amendment 51 removes existing recreational AMs, replaces it with a defective AM, and fails to establish AMs to ensure the recreational ACL is not exceeded. Further, the proposed recreational AM does nothing to correct and mitigate overages if they occur, and does not consider a payback of the overage.

Response: NMFS acknowledges that the recreational AMs are revised but disagrees that the new AM is defective as set forth in the comment. The current recreational AMs are being modified in this rule in response to the reduction in both the recreational ACL and season length for snowy grouper in Amendment 51. As explained in the response to *Comment 4,* NMFS uses data from the MRIP–FES and headboat survey to track recreational landings and compare them to the recreational ACL. Retaining an in-season closure based on current recreational landings data is not practical for a recreational ACL of 1,668 fish (in 2023) and season length of 2 months, given the time delay between when recreational landings for species occur and when the information becomes available to management for in-season actions such as closures.

The final rule modifies the post-season recreational AM so that the reduction in fishing season length following an overage of the recreational ACL is not dependent on an exceedance of the total ACL and an overfished stock status. The new AM for the recreational sector will now be triggered when only the recreational ACL is exceeded, thereby ensuring that a recreational ACL overage does not also affect the ACL for the commercial sector. If recreational landings exceed the recreational ACL, and after an analysis and determination by NMFS that a reduction of the recreational ACL in the following year is necessary, NMFS will reduce the length of the recreational fishing season

for the year following an ACL overage by the amount necessary to prevent the recreational ACL from being exceeded again.

In addition, this final rule removes the potential duplicate AM application of a reduction in the recreational season length and a reduction of the recreational ACL matching the amount of the ACL overage if the total ACL was exceeded. The Council considered this a potential ''double penalty'' for the recreational sector and did not consider both actions necessary following an overage of the total ACL.

Similar actions are being taken to modify recreational AMs in Amendments 50, 52, and 53 to the FMP, especially for species where the recreational ACL is relatively low and the recreational season length is short.

Comment 6: Reducing an already short season for snowy grouper would adversely affect recreational fishermen during the closed months while weather is generally favorable for bottom fishing. Snowy grouper provide a trophy to target, fine table fare, and a small reward to maintain angler interest.

Response: The current recreational fishing season is from May through August, and reducing the recreational fishing season from 4 to 2 months is needed to end overfishing, continue to rebuild the stock, and offer long-term social benefits. The Council considered multiple factors in recommending the preferred alternative for reducing the length of the snowy grouper recreational season, including the season length projections, economic concerns, and the potential changes in bycatch. The Council determined and NMFS agrees that it is important to provide recreational fishermen and for-hire fishing businesses with the longest season possible to harvest the recreational ACL, while preventing overages of the recreational ACL. Shortening the time that recreational fishing is allowed for snowy grouper in the South Atlantic contributes to ensuring that recreational catches do not exceed the recreational ACLs specified in this final rule. The 2-month season allows for retention of snowy grouper when recreational fishermen target co-occurring species, such as blueline tilefish, in some areas. In addition, disruptive weather events, such as hurricanes, occur with greater frequency during July and August than during May and June. Given the need to shorten the recreational season to end overfishing, having the revised recreational fishing season for snowy grouper earlier rather than later in the summer should allow for greater access to harvest snowy grouper. Finally, the new recreational season may provide additional biological benefits to spawning snowy grouper, as the season will now exclude July and August, which is part of the snowy grouper peak spawning season of May through August.

Comment 7: The 2-month recreational fishing season NMFS is proposing is also too long when compared to the recreational ACL as Amendment 51 shows that the recreational ACL would likely be met before the end of the season. For snowy grouper to be rebuilt, recreational seasons need to be shortened and accountability increased. It is irrational to propose keeping the season open an additional 17 days past when the analysis in Amendment 51 shows that the recreational ACL would be met (June 13).

Response: Amendment 51 contains two projections that estimate when the recreational ACL will be reached if the new recreational ACL and a 2-month fishing season are implemented. Using a 3-year average (2017 through 2019) of landings, the recreational ACL is not expected to be reached before the end of the fishing season. Using a 5-year average (2015 through 2019) of landings, landings are projected to reach the recreational ACL on June 13th. After reviewing the projection information and effects analysis, the Council chose a 2-month season for the reasons outlined in the response to *Comment 6.* If recreational landings exceed the recreational ACL, NMFS could shorten the following recreational season to avoid another exceedance of the ACL. NMFS has determined that the ACLs, AMs, and management measures for the recreational sector specified in Amendment 51 and this final rule will end overfishing, continue to rebuild the stock, and prevent and mitigate overages if they are to occur.

Comment 8: Amendment 51 conflicts with National Standard 8 as it will result in further declines in participation of the commercial fishing community (as shown by the reduced number of commercial permits) and not provide for sustained participation, will impose further hardship on the commercial sector by reducing the total ACL while failing to account for the sectors' respective contribution to the underlying problem, and will impose (not minimize) negative economic impacts on those communities. The commercial industry has suffered through 100-lb (45-kg) trip limits, while the recreational sector has been allowed to operate without changes.

Response: NMFS disagrees that Amendment 51 is inconsistent with the Magnuson-Stevens Act National Standard 8, which requires that conservation and management measures take into account the importance of fishery resources to fishing communities to provide for the sustained participation of those communities, and to the extent practicable, minimize adverse economic impacts on those communities. NMFS acknowledges that snowy grouper is predominantly harvested by the commercial sector, that the sector is supported by the associated fishing communities, and that commercial vessel permits issued for the snapper-grouper fishery have decreased over time. Following the results of the SEDAR 4 assessment for snowy grouper (2006), which indicated the stock was both overfished and experiencing overfishing, additional restrictions were implemented for both the commercial and recreational sectors to help end overfishing and rebuild the stock; those restrictions now include low commercial trip limits (currently 200 lb or 91 kg, last revised and increased in 2015) and low recreational bag limits (currently one snowy grouper per vessel, last revised and decreased in 2006). Section 1.7 in Amendment 51 provides further information on the history of management for the commercial and recreational harvest of snowy grouper. NMFS utilized the best scientific information available to describe affected fishing communities in Amendment 51 and evaluate the economic effects on the commercial sector, in general. Fishing communities that are associated with commercial and recreational fishing and can be identified as having some relationship with snowy grouper harvest are identified and discussed in section 3.4 of Amendment 51.

The snowy grouper stock in the South Atlantic is overfished and is subject to overfishing. Magnuson-Stevens Act National Standard 1 requires that conservation and management measures prevent overfishing, and National Standard 8 is also clear that those conservation and management measures take into account the importance of fishery resources to fishing communities ''consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks) . . . .'' 16 U.S.C. 1851(a)(8). Further, according to the National Standard 8 Guidelines at 50 CFR 600.345(b)(1), ''[W]here two alternatives achieve similar conservation goals, the alternative that provides the greater potential for sustained participation of [fishing] communities and minimizes the adverse economic impacts on such communities would be the preferred alternative.''

The actions in Amendment 51 that directly affect the commercial sector and thus commercial fishing communities are revisions to the ABC, total ACL, and annual OY for snowy grouper, and revisions to the sector allocations and sector ACLs. The reductions in the ABC, ACL, and annual OY for snowy grouper are required by the need to end overfishing and rebuild the stock. The no-action alternatives in Amendment 51 would not have met these objectives. Of the other alternatives considered, the measures implemented in this final rule are expected to generate the least adverse economic effects on the commercial sector and thus on commercial fishing communities. Further, the commercial allocation is actually increased in Amendment 51. The analysis shows that this choice of allocation is expected to generate the least adverse economic effects on the commercial sector and thus on commercial fishing communities. Therefore, NMFS has determined that the measures in this final rule are expected to minimize adverse effects on commercial fishing communities, consistent with National Standard 8.

Comment 9: Amendment 51 harms consumers of snowy grouper. While commercial fishers may be able to adapt, the consumer has preferences for their favorite fish. Having to instead choose imported fish is not desired and the Council and NMFS need to ensure domestic access through commercial fishermen.

Response: NMFS acknowledges that some U.S. consumers may prefer locally-harvested South Atlantic groupers, and that a reduced supply of snowy grouper could result in a reduction in economic benefits for those consumers. Unfortunately, NMFS does not have estimates of price flexibility (how prices respond to changes in supply) or demand elasticity (how quantity demanded responds to changes in price) that are specific to South Atlantic snowy grouper or other comparable South Atlantic groupers, and therefore NMFS cannot project changes in prices or estimate changes in consumer surplus (economic benefits) associated with the new commercial ACL implemented by this final rule. There are, however, a number of consumer substitutes for South Atlantic snowy grouper, including other South Atlantic snapper-grouper species, snappers and groupers harvested from the Gulf of Mexico, and imports. The availability of these substitutes will likely minimize any effects on consumers that result from a change in the supply of South Atlantic snowy grouper. As previously discussed, although the commercial ACL is reduced, this final rule will increase the allocation for the commercial sector. Relative to the alternatives considered, this would generate the least adverse economic effects on the commercial sector and thus on seafood consumers.

Comment 10: Amendment 51 does not comply with National Standard 9 because the amendment fails to account for dead discards and will increase bycatch of snowy grouper by setting a recreational season shorter than the blueline tilefish season. The snowy grouper recreational season needs to be adjusted to align with blueline tilefish as these species regularly co-occur. Amendment 51 does nothing to minimize bycatch and will instead increase bycatch. The amendment fails to consider whether measures to minimize bycatch or bycatch mortality are possible such as multi-hook rigs when the daily bag limit is one snowy grouper per vessel.

Response: NMFS disagrees that Amendment 51 violates Magnuson-Stevens Act National Standard 9, and NMFS explained in the response to Comment 3 how Amendment 51 accounted for dead discards. National Standard 9 requires that conservation and management measures, ''to the extent practicable: (1) minimize bycatch; and (2) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.'' 16 U.S.C. 1851(a)(9). NMFS has determined that Amendment 51 minimizes bycatch and bycatch mortality to the extent practicable. This determination is supported by a Bycatch Practicability Analysis for the actions in Amendment 51 (Appendix G to Amendment 51) that evaluated the practicability of taking additional action to minimize bycatch and bycatch mortality using the 10 factors provided in the National Standard 9 Guidelines at 50 CFR 600.350(d)(3)(i).

NMFS acknowledges that commercial and recreational discards of snowy grouper may increase as a result of reduced ACLs and shorter fishing seasons. Many of the 55 managed snapper-grouper species, such as snowy grouper and blueline tilefish, occur together in certain areas. Fishermen will often target a species where retention is allowed, and then must discard a species if the harvest is closed. As the final rule will decrease the commercial ACL and retain the current in-season closure when the ACL is reached or projected to be reached, the commercial season is likely to close earlier in the year after the new commercial ACL in the final rule is implemented (see Appendix F of Amendment 51 for a projection of the commercial season length). In turn, a longer closed season could increase discards of snowy grouper if fishermen are targeting species that co-occur with snowy grouper.

Similarly, recreational discards may increase with a lower recreational ACL and shorter season if fishermen target species that also occur with snowy grouper when harvest for snowy grouper is closed. However, any adverse effects are expected to be minor because discards comprise a relatively minor component of the over total mortality of snowy grouper. For example, snowy grouper and blueline tilefish occur together in some areas, and for the recreational sector, the current fishing seasons for both species are open from May through August. This final rule will reduce the recreational season for snowy grouper from 4 to 2 months. Amendment 52 to the FMP will reduce the bag limit and change the recreational accountability measures for blueline tilefish but will not change the 4-month season (88 FR 76696, November 7, 2023). NMFS acknowledges that fishermen will need to discard snowy grouper during the snowy grouper closure. Based on public input, snowy grouper discards are not expected to change north of Cape Hatteras, North Carolina, as the typical habitats where snowy grouper and blueline tilefish occur are more segregated.

Despite the possible change in discards, the reduction in ACLs and recreational fishing season are needed to end overfishing, continue to rebuild the stock, and offer long-term social benefits. The National Standard 9 Guidelines advise that conservation and management measures must also be consistent with all of the other national standards and maximization of net benefits to the Nation (50 CFR 600.350(d)(3)(i)). NMFS has determined that the actions in the final rule are required to prevent overfishing while achieving, on a continuing basis, the OY from the fishery (National Standard 1), set an ACL that does not exceed the ABC (National Standard 1), implement conservation and management measures based upon the best scientific information available (National Standard 2), and minimize adverse economic impacts on fishing communities (National Standard 8). See also the responses to *Comments 6* and *7* for a discussion of the multiple factors that were considered when choosing the length of the snowy grouper recreational season, including the season length projections, economic concerns, and the

expected or potential changes in bycatch.

Any change to snowy grouper discards from the actions in the final rule may not have a significant affect to the overall health of the stock. Dead discards comprise a minor component of the overall mortality of snowy grouper, with total removals of snowy grouper estimated to comprise on average 95.4 percent landings and 4.6 percent dead discards (SEDAR 36 Update). NMFS considered the actions and analyses in Amendment 51, and evaluated the practicability of taking additional action to minimize bycatch and bycatch mortality (50 CFR 600.350(d)(3)(i)). In summary, NMFS does not expect the actions in Amendment 51 to significantly contribute to or detract from the current level of bycatch in the snapper grouper fishery, as supported by the Bycatch Practicability Analysis for Amendment 51 (Appendix G).

NMFS has implemented other measures to reduce bycatch and bycatch mortality. For example, in implementing Regulatory Amendment 29 to the FMP on July 15, 2020, to reduce bycatch, NMFS required that a descending device be available and ready for use on all commercial, for-hire, and private recreational vessels while fishing for or possessing snapper-grouper species. To reduce fishing mortality, that final rule also required the use of non-offset non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural bait north of 28° N latitude. (85 FR 36166, June 15, 2020). The Council has also developed a Best Fishing Practices Outreach Campaign for commercial and recreational fishermen that includes education and outreach and the collection of discard information through their Citizen Science Program. The program involves fishermen and scientists working together to collect information that can be used for stock assessments and management.

Comment 11: NMFS' National Standard Guidelines recommend use of an annual catch target (ACT), or buffer below the ACL, to ''account for management uncertainty in controlling the catch at or below the ACL.'' Amendment 51 does not specify an ACT or buffer for the recreational sector despite massive, acknowledged management uncertainty.

Response: NMFS acknowledges that the Council did not consider a recreational ACT in Amendment 51. Recreational ACTs have not been used for management purposes under the FMP, and ACTs were recently eliminated through Amendment 49 to the FMP for all snapper-grouper species because management uncertainty is already accounted for when setting ACLs (88 FR 65819, September 26, 2023).

Comment 12: It is unfair to impose a rule that is effective May 1 through June 30 and the proposal was introduced on May 22, 2023. If the amendment is approved, it should be effective further in the future as to allow recreational fisherman time to catch snowy grouper.

Response: NMFS published the notice that announced the availability of Amendment 51 for public review and comment in the **Federal Register** on May 22, 2023 (88 FR 32717), and published the proposed rule for public review and comment on May 30, 2023 (88 FR 34460). Prior to these public comment periods, the actions in Amendment 51 were introduced and discussed during multiple public Council meetings that also had public comment periods. Amendment 51 was approved on August 17, 2023, and after this final rule to implement Amendment 51 publishes in the **Federal Register**, there will be a 30-day delay before the management measures in this rule become effective, consistent with the Administrative Procedure Act, as specified in the **DATES** section of this final rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 51, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

Public comments relating to socio-economic implications and potential impacts on small businesses are addressed in the responses to *Comments 6, 8,* and *9* in the Comments and Responses section of this final rule. No changes to this final rule were made in response to these public comments. No comments were received from the Office of Advocacy for the Small Business Administration.

This final rule will: (1) revise the snowy grouper total ACL, (2) revise the snowy grouper sector ACLs, (3) modify the snowy grouper recreational season, and (4) revise the recreational AMs for snowy grouper. The changes to the ACLs, as well as the sector allocations, would apply to all federally-permitted commercial vessels, federally-permitted charter vessels and headboats (for-hire vessels), and recreational anglers that fish for or harvest snowy grouper in Federal waters of the South Atlantic. The changes to the recreational season and AMs only apply to federally permitted owners and operators of for-hire vessels and recreational anglers. This final rule will not directly apply to federally-permitted dealers. Any change in the supply of snowy grouper available for purchase by dealers as a result of this final rule, and associated economic effects, would be an indirect effect of this rule and would therefore fall outside the scope of the Regulatory Flexibility Act (RFA).

Although all components of this final rule apply to for-hire vessels, they are not expected to have any direct effects on these entities. For-hire vessels sell fishing services to recreational anglers. The changes to the snowy grouper management measures will not directly alter the services sold by these vessels. Any change in demand for these fishing services, and associated economic effects, as a result of this final rule would be a consequence of a change in anglers' behavior, which would be secondary to any direct effect on anglers and, therefore, an indirect effect of this final rule. Based on the historically-minimal level of charter-mode target effort for snowy grouper in the South Atlantic, NMFS does not expect any change in for-hire trip demand to result from this final rule; however, should it occur, the associated indirect effects would fall outside the scope of the RFA. For-hire captains and crew are allowed to retain snowy grouper under the recreational bag limit; however, they cannot sell these fish. As such, for-hire captains and crew are only affected as recreational anglers. The RFA does not consider recreational anglers to be entities, so they are also outside the scope of this analysis (5 U.S.C. 604). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C.

601(6) and 601(3)–(5)). Recreational anglers are not businesses, organizations, or governmental jurisdictions. In summary, only the impacts on commercial vessels will be discussed.

As of August 26, 2021, there were 579 valid or renewable South Atlantic snapper-grouper commercial unlimited permits and 112 valid or renewable commercial 225-lb (102-kg) trip-limited snapper-grouper permits. On average from 2015 through 2019, there were 161 federally-permitted commercial vessels with reported landings of snowy grouper in the South Atlantic. For the 161 commercially permitted vessels, the average annual vessel-level gross revenue from all species for 2015 through 2019 was $82,475 (2021 dollars) and snowy grouper accounted for approximately 6.1 percent of this revenue. For commercial vessels that harvest snowy grouper in the South Atlantic, NMFS estimates that economic profits are $3,299 (2021 dollars) or approximately 4 percent of annual gross revenue, on average. The maximum annual revenue from all species reported by a single one of the vessels that harvested snowy grouper from 2015 through 2019 was $638,709 (2021 dollars).

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this final rule are believed to be small entities based on the NMFS size standard. No other small entities that are directly affected by this final rule have been identified.

This final rule will revise the total ACL for snowy grouper, based on the most recent ABC recommendation from the Council's SSC in response to the SEDAR 36 Update. This catch limit reflects a shift in recreational reporting units from the MRIP–CHTS to the MRIP–FES. The total ACL will be set equal to the ABC or 119,654 lb (54,274 kg) in 2023, 121,272 lb (55,008 kg) in 2024, and 122,889 lb (55,742 kg) in 2025 and subsequent years. Based on the current sector allocation percentages, these changes to the catch limits represent a decrease in the current commercial ACL for snowy grouper of 54,622 lb (24,776 kg) in 2023, 53,279 lb (24,167 kg) in 2024, and 51,937 lb (23,558 kg) in 2025 and subsequent years. However, as discussed below, this final rule will also modify the percentage of the total ACL that is allocated to the commercial sector and therefore economic effects to small entities are quantified as part of that discussion.

Amendment 51 will increase the commercial sector allocation from 83 percent of the total snowy grouper ACL to 87.55 percent. This, in conjunction with the changes to the total ACLs, results in a commercial ACL for snowy grouper of 104,757 lb (47,517 kg) in 2023 (73,330 lb [33,262 kg] in Season 1 and 31,427 lb [14,255 kg] in Season 2); 106,174 lb (48,160 kg) in 2024 (74,322 lb [33,712 kg] in Season 1 and 31,852 lb [14,448 kg] in Season 2); and 107,589 lb (48,802 kg) in 2025 and in subsequent years (75,312 lb [34,161 kg] in Season 1 and 32,277 lb [14,641 kg] in Season 2). Relative to the status quo commercial ACL of 153,935 lb (69,824 kg), this is a decrease of 49,178 lb (22,307 kg) in 2023; 47,761 lb (21,664 kg) in 2024; and 46,346 lb (21,022 kg) in 2025 and in subsequent years. These decreases in the commercial ACL are expected to result in corresponding decreases in aggregate ex-vessel revenue of $284,249 (2021 dollars) in 2023, $276,059 in 2024, and $267,880 in 2025 and subsequent years, noting that the 2023 ex-vessel revenue estimates are likely overstated given the expected implementation of this final rule later in this fishing year. Divided by the average number of vessels with reported landings of snowy grouper from 2015 through 2019, this translates to an annual loss in ex-vessel revenue that ranges from $1,664 (2021 dollars) to $1,766 per vessel, which is approximately 2 percent of average annual per vessel gross revenue. It is noted that snowy grouper makes up a relatively small portion of annual gross revenue for vessels that land the species (6.1 percent), and on trips where snowy grouper are harvested, it comprises less than a quarter of trip revenue, on average (2015 to 2019). Therefore, NMFS assumes snowy grouper is harvested as a secondary, if not incidental, species on trips targeting other species and that this final rule will not materially affect fishing behavior, effort, or operating costs. As a result, the estimated reduction in annual ex-vessel revenue due to less snowy grouper available for harvest is assumed to be a straight loss in annual economic profits of $1,664 (2021 dollars) to $1,766 per vessel (approximately 50 percent to 54 percent of average annual economic profits). Individual fishing businesses, however, may experience varying levels of economic effects, depending on their fishing practices, operating characteristics, and profit maximization strategies.

The following discussion describes the alternatives that were considered but not implemented in this final rule.

Three alternatives were considered for the action to set the ABC, total ACL, and annual OY equal to 119,654 lb (54,274 kg) in 2023, 121,272 lb (55,008 kg) in 2024, and 122,889 lb (55,742 kg) in 2025 and subsequent years. The first alternative to the action, the no action alternative, would maintain the current ABC, ACL, and annual OY of 185,464 lb (84,125 kg). Therefore, it would not be expected to change fishing practices or commercial harvests of snowy grouper, nor would it be expected to have resulting economic effects. This alternative was not selected by the Council because it would not end overfishing and it would be inconsistent with the SSC's latest catch limit recommendations and the transition to MRIP–FES, and therefore, would not be based on the best scientific information available.

The second alternative would set the ACL and annual OY for snowy grouper equal to 95 percent of the most recent ABC recommendation from the SSC. Under the second alternative, both the ACL and annual OY would be set to 113,671 lb (51,560 kg) in 2023, 115,208 lb (52,257 kg) in 2024, and 116,745 lb (52,955 kg) in 2025 and in subsequent years. Relative to the total ACLs set by this final rule and assuming no change to the current sector allocations, this alternative would reduce the commercial ACL and annual OY by an additional 5,983 lb (2,714 kg) in 2023, 6,064 lb (2,751 kg) in 2024, and 6,144 lb (2,787 kg) in 2025 and in subsequent years. These further reductions in the ACL would result in an estimated annual reduction in ex-vessel revenue and economic profits that is $34,582 (2021 dollars) to $35,512 ($215 to $221 per vessel) greater than what is expected under the total ACLs set by this final rule. The Council did not select the second alternative because they decided it would be less effective at achieving the objectives of the FMP and that the current monitoring mechanisms in the South Atlantic, coupled with the existing management measures, as well as those implemented by this final rule, would be sufficient at preventing overages, thus not requiring a buffer between the ABC and ACL.

The third alternative would set the ACL and annual OY for snowy grouper equal to 90 percent of the most recent ABC recommendation from the SSC. Under the third alternative, both the ACL and annual OY would be set to 107,689 lb (48,847 kg) in 2023, 109,145 lb (49,507 kg) 2024, and 110,600 lb (50,167 kg) in 2025 and subsequent years. Relative to the total ACLs set by this final rule and assuming no change to the current sector allocations, this alternative would reduce the commercial ACL and annual OY by an additional 11,965 lb (5,427 kg) in 2023, 12,127 lb (5,501 kg) in 2024, and 12,289 lb (5,574 kg) in 2025 and subsequent years. These further reductions in the ACL would result in an estimated annual reduction in ex-vessel revenue and economic profits that is $69,158 (2021 dollars) to $71,030 ($430 to $441 per vessel) greater than what is expected under the total ACLs set by this final rule. The Council did not select the third alternative because they decided it would be less effective at achieving the objectives of the FMP and that the current ACL monitoring mechanisms in the South Atlantic, coupled with the existing management measures, as well as those implemented by this final rule, would be sufficient at preventing overages, thus not requiring a buffer between the ABC and ACL.

Two alternatives were considered for the action to revise sector allocations and ACLs for snowy grouper. The first alternative to the action, the no action alternative, would retain the current commercial sector and recreational sector allocations as 83 percent and 17 percent, respectively, of the revised total ACL for snowy grouper. Based on the total ACLs set by this final rule of 119,654 lb (54,274 kg) in 2023, 121,272 lb (55,008 kg) in 2024, and 122,889 lb (55,742 kg) in 2025 and subsequent years, this alternative would result in a commercial ACL of 99,313 lb (45,048 kg) in 2023, 100,656 lb (45,657 kg) in 2024, and 101,998 lb (46,266 kg) in 2025 and subsequent years. Compared to the commercial sector allocation set by this final rule of 87.55 percent, this alternative would result in a commercial ACL that is 5,444 lb (2,469 kg) lower in 2023, 5,518 lb (2,503 kg) lower in 2024, and 5,591 lb (2,536 kg) lower in 2025 and subsequent years. This would translate to an additional aggregate annual loss in ex-vessel revenue and economic profits of $31,466 (2021 dollars) to $32,316 ($195 to $201 per vessel) relative to this final rule. The Council did not select the first alternative because the status quo sector allocation percentages are based on average landings from 1986 through 2005 in MRIP–CHTS units and therefore do not reflect the intent or results of the original allocation formula when applied to the new ACL based on MRIP–FES units. The terms ''MRIP–CHTS units'' and ''MRIP–FES units'' signify landings data that are in different scales and are not directly comparable.

The second alternative would allocate 73.36 percent of the revised total ACL for snowy grouper to the commercial sector and 26.64 percent of it to the recreational sector. Based on the total ACLs set by this final rule, this alternative would result in a commercial ACL of 87,778 lb (39,815 kg) in 2023, 88,965 lb (40,354 kg) in 2024, and 90,151 lb (40,892 kg) in 2025 and subsequent years. Compared to the commercial sector allocation set by this final rule of 87.55 percent, this alternative would result in a commercial ACL that is 16,979 lb (7,702 kg) lower in 2023, 17,209 lb (7,806 kg) lower in 2024, and 17,438 lb (7,910 kg) lower in 2025 and subsequent years. This would translate to an additional aggregate annual loss in ex-vessel revenue and economic profits of $98,139 (2021 dollars) to $100,792 ($610 to $626 per vessel) relative to this final rule. The Council did not select the second alternative because they decided that the method used to determine the current allocations (average landings from 1986 through 2005) was more appropriate than the allocations formula adopted through the 2012 Comprehensive ACL Amendment to the FMP for unassessed species (77 FR 15916, March 16, 2012). They also decided that the second alternative would be less effective at achieving the objectives of the FMP and satisfying the needs of the commercial sector, in particular.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. Copies of this final rule are available from the Southeast Regional Office, and the guide, *i.e.,* fishery bulletin, will be sent to all known industry contacts in the snapper-grouper fishery and be posted at *https://www.fisheries.noaa.gov/tags/small-entity-compliance-guide?title=&field_species_vocab_target_id=&field_region_vocab_target_id%5B1000001121%5D=1000001121&sort_by=created.* The guide and this final rule will be available upon request.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Recreational, Snowy grouper, South Atlantic.

Dated: November 27, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.183, revise paragraph (b)(8) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(8) *Snowy grouper recreational sector closure.* The recreational sector for snowy grouper in the South Atlantic EEZ is closed each year from January 1 through April 30, and July 1 through December 31. During a recreational closure, the bag and possession limits for snowy grouper harvested in or from the South Atlantic EEZ are zero.

* * * * *

■ 3. In § 622.190, revise paragraphs (a)(1)(i) and (ii) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(1) * * *

(i) From January 1 through June 30 each year.

(A) 2023—73,330 lb (33,262 kg).

(B) 2024—74,322 lb (33,712 kg).

(C) 2025 and subsequent fishing years—75,312 lb (34,161 kg).

(ii) From July 1 through December 31 each year.

(A) 2023—31,427 lb (14,255 kg).
(B) 2024—31,852 lb (14,448 kg).
(C) 2025 and subsequent fishing years—32,277 lb (14,641 kg).
* * * * *

■ 4. In § 622.193, revise paragraph (b) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(b) *Snowy grouper*—(1) *Commercial sector.* (i) If commercial landings of snowy grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL that is equal to the commercial quota specified in § 622.190(a)(1), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings of snowy grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL specified in paragraph (b)(3) of this section is exceeded, and snowy grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* (i) The recreational ACL for snowy grouper is 1,668 fish for 2023; 1,691 fish for 2024; and 1,713 fish for 2025 and subsequent fishing years.

(ii) If recreational landings for snowy grouper exceed the recreational ACL specified in paragraph (b)(2)(i) of this section, then during the following fishing year NMFS will reduce the length of the recreational fishing season by the amount necessary to prevent recreational landings from exceeding the recreational ACL in the following fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season is necessary. When the recreational sector for snowy grouper is closed as a result of NMFS reducing the length of the recreational fishing season, the bag and possession limits for snowy grouper harvested in or from the South Atlantic EEZ are zero.

(3) *Total ACL.* The combined commercial and recreational ACL for snowy grouper in gutted weight is 119,654 lb (54,274 kg) for 2023; 121,272 lb (55,008 kg) for 2024; and 122,889 lb (55,741 kg) for 2025 and subsequent fishing years.

* * * * *

[FR Doc. 2023–26351 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 230
Friday, December 1, 2023

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Doc. No. AMS–SC–23–0037]

Pears Grown in Oregon and Washington; Increased Assessment Rate for Processed Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Processed Pear Committee (Committee) to increase the assessment rate established for the 2023–2024 fiscal period and subsequent fiscal periods. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by January 2, 2024.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments may also be submitted to the Docket Clerk electronically by Email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and can be viewed at: *https://www.regulations.gov.* Comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Dale Novotny, Marketing Specialist, or Gary Olson, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *DaleJ.Novotny@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of growers, handlers, and processors of pears operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This proposed action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. The AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This proposed rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, pear handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable ''summer/fall'' pears for canning for the 2023–2024 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate for ''summer/fall'' varieties of pears for canning handled under the Order from $7.15 per ton, the rate that was established for the 2018–2019 fiscal period and subsequent fiscal periods, to $7.50 per ton for the 2023–2024 fiscal period and subsequent fiscal periods.

The Order authorizes the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members

of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2018–2019 fiscal period and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of $7.15 per ton of ''summer/fall'' varieties of pears for canning handled (83 FR 62451). That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on June 8, 2023, and unanimously recommended 2023–2024 fiscal period expenditures of $607,532 and an assessment rate of $7.50 per ton of ''summer/fall'' varieties of pears for canning handled for the 2023–2024 fiscal period and subsequent fiscal periods. In comparison, last year's budgeted expenditures were $594,130. The proposed assessment rate of $7.50 per ton is $0.35 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to better fund operations using assessment revenue and reduce the reliance on reserve funds. The Committee has drawn down its financial reserve in recent years to cover Committee expenses and to reduce the reserve so as to not exceed approximately one fiscal period's budgeted expenses, in conformance with the Order (7 CFR 927.42(a)). The Committee projects handler receipts of 78,000 tons of assessable ''summer/fall'' varieties of pears for canning for the 2023–2024 fiscal period, which is 7,288 more than was projected for the 2022–2023 fiscal period.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include $492,595 for marketing, promotions, and paid advertising; $73,337 for research; $25,000 for promotion management fees; and $16,600 for Committee administrative expenses. Budgeted expenditures for the 2022–2023 fiscal period were $483,300, $66,530, $25,000, and $21,396, respectively.

Processed pears for canning are marketed throughout the calendar year. The expected 78,000-ton 2023 crop would generate $585,000 in assessment revenue at the proposed assessment rate (78,000 tons of assessable ''summer/fall'' varieties of pears for canning multiplied by $7.50 per ton assessment rate). The remaining $22,532 needed to cover budgeted expenditures would come from reserve funds carried over from previous fiscal periods and $100 in interest income. The 2023–2024 fiscal period assessment rate increase should be appropriate to ensure the Committee has sufficient revenue, along with its reserve, to fully fund its recommended 2023–2024 fiscal period budgeted expenditures and maintain a level of reserve funds that the Committee believes is appropriate.

The Committee derived the recommended assessment rate by considering anticipated fiscal period expenses, an estimated 2023 crop volume of 78,000 tons of assessable ''summer/fall'' varieties of pears for canning, and the amount of funds available in the authorized reserve. Income derived from handler assessments ($585,000) and funds from the Committee's authorized reserve ($22,432) along with interest income ($100) are expected to be adequate to cover budgeted expenses ($607,532).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2023–2024 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule on small entities. Accordingly, AMS prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 1,500 growers of pears for processing in the production area and approximately 34 handlers of processed pears subject to regulation under the Order. Small agricultural growers of processed pears are defined by the Small Business Administration (SBA) as those having annual receipts equal to or less than $3.5 million, and small agricultural service firms are defined as those whose annual receipts are equal to or less than $34 million (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the average annual grower price received for processed pears in Washington and Oregon was $361 per ton (2022). Total production of pears for canning for the 2022 season was reported by the Committee to be 74,131 tons. Using the average grower price from 2022, the most recent years for which there is NASS data, the total 2022 crop value of pears grown for processing in Oregon and Washington was $26,761,291 (74,131 tons multiplied by $361 per ton). Dividing the crop value by the estimated number of growers (1,500) yields an estimated average receipt per grower of $17,841, which is well below the SBA threshold for small growers.

Given the relatively small total farmgate value of pears for processing produced in the production area ($26,761,291), it is probable that most, if not all, of the pear processors regulated by the Order would be considered small entities. Dividing the $26,761,291 estimated crop value by the number of handlers of processed pears (34) equals $787,097. AMS has not identified a direct third-party reference for estimating processed pear manufacturing margins. Without direct third-party information regarding the industry, determination of the number of large and small processors using the SBA's definition would be difficult. However, given the low average crop value of pears for processing ($787,097) it may be assumed that most, if not all, of the handlers of processed pears would have annual receipts below the SBA threshold for small agricultural service firms ($34 million). Therefore, using the above information and

assuming a normal distribution, most of the growers and handlers of pears for processing may be classified as small entities.

This proposal would increase the assessment rate collected from handlers for the 2023–2024 fiscal period and subsequent fiscal periods from $7.15 to $7.50 per ton of Oregon and Washington ''summer/fall'' pears for canning. The Committee unanimously recommended 2023–2024 fiscal period expenditures of $607,532 and an assessment rate of $7.50 per ton of ''summer/fall'' pears for canning. The proposed assessment rate of $7.50 is $0.35 higher than the current rate. The Committee expects the industry to handle 78,000 tons of ''summer/fall'' varieties of pears for canning during the 2023–2024 fiscal period. Thus, the $7.50 per ton rate should provide $585,000 in assessment income (78,000 tons multiplied by $7.50). The Committee also expects to use $22,532 from its financial reserve and $100 in interest income to cover remaining expenses. Income derived from handler assessments, along with reserve funds, should be adequate to meet budgeted expenditures for the 2023–2024 fiscal period.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include $492,595 for marketing, promotions, and paid advertising; $73,337 for research; $25,000 for promotion management fees; and $16,600 for Committee administrative expenses. Budgeted expenditures for the 2022–2023 fiscal period were $483,300, $66,530, $25,000, and $21,396, respectively.

In recent years, the Committee has utilized reserve funds to partially fund its budgeted expenditures. The Committee recommended increasing the assessment rate to better fund 2023–2024 fiscal period budgeted expenditures and refrain from excessively drawing down the funds held in its reserve. This action would maintain the Committee's reserve balance at a level that the Committee believes is appropriate and is compliant with the provisions of the Order.

Prior to arriving at this budget and the proposed assessment rate, the Committee discussed various alternatives, including maintaining the current assessment rate of $7.15 per ton and increasing the assessment rate by different amounts. However, the Committee determined that the recommended assessment rate would be able to fund most of the budgeted expenses and avoid drawing down reserves at an unsustainable rate. The assessment rate of $7.50 per ton of Oregon and Washington ''summer/fall'' pears for canning was derived by considering anticipated expenses, the projected volume of assessable pears for canning, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average grower price for the 2022–2023 fiscal period was $361 per ton. Utilizing the assessment rate of $7.50 per ton, assessment revenue for the 2022–2023 fiscal period, as a percentage of total grower revenue, would have been approximately 2.08 percent ($7.50 per ton divided by $361 multiplied by 100).

This proposed action would increase the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the production area. The processed pear industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the June 8, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189, Fruit Crops. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large processed pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this proposed rule.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 927 as follows:

PART 927—PEARS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 927.237 introductory text and paragraph (a) to read as follows:

§ 927.237 Processed pear assessment rate.

On and after July 1, 2023, the following base rates of assessment for pears for processing are established for the Processed Pear Committee:

(a) $7.50 per ton for any or all varieties or subvarieties of pears for canning classified as ''summer/fall'' excluding pears for other methods of processing;

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–26380 Filed 11–30–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2224; Airspace Docket No. 23–AGL–34]

RIN 2120–AA66

Amendment of Class E Airspace; Park River, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace at Park River, ND. The FAA is proposing this action due to the development of new public instrument procedures and to support instrument flight rule (IFR) operations. The name of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before January 16, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2224 and Airspace Docket No. 23–AGL–34 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Park River Airport-W.C. Skjerven Field, Park River, ND, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile (decreased from a 7-mile) radius of Park River Airport-W.C. Skjerven Field, Park River, ND; and updating the name (previously Park River-W.C. Skjerven Field) to coincide with the FAA's aeronautical database.

The FAA is proposing this action due to the development of new public

instrument procedures and to support IFR operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Park River, ND [Amended]

Park River Airport-W.C. Skjerven Field, ND

(Lat 48°23′39″ N, long 97°46′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Park River Airport-W.C. Skjerven Field.

* * * * *

Issued in Fort Worth, Texas, on November 27, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–26357 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2222; Airspace Docket No. 23–AGL–32]

RIN 2120–AA66

Establishment of Class E Airspace; Redfield, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Redfield, SD. The FAA is proposing this action due to the development of new public instrument procedures and to support instrument flight rule (IFR) operations.

DATES: Comments must be received on or before January 16, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2222 and Airspace Docket No. 23–AGL–32 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish the Class E airspace extending upward from 700 feet above the surface at Redfield Municipal Airport, Redfield, SD, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report

summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface to within a 6.3-mile radius of Redfield Municipal Airport, Redfield, SD.

The FAA is proposing this action due to the development of new public instrument procedures and to support instrument flight rule (IFR) operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL SD E5 Redfield, SD [Establish]

Redfield Municipal Airport, SD
(Lat 44°51′24″ N, long 98°31′52″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Redfield Municipal Airport.

* * * * *

Issued in Fort Worth, Texas, on November 27, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–26356 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2223; Airspace Docket No. 23–AGL–33]

RIN 2120–AA66

Establishment of Class E Airspace; Mott, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Mott, ND. The FAA is proposing this action due to the development of new public instrument procedures and to support instrument flight rule (IFR) operations.

DATES: Comments must be received on or before January 16, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2223 and Airspace Docket No. 23–AGL–33 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instruction for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9

a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish the Class E airspace extending upward from 700 feet above the surface at Mott Municipal Airport, Mott, ND, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or dely. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT post these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published subsequently in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing to amend 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface to within a 6.9-mile radius of Mott Municipal Airport, Mott, ND.

The FAA is proposing this action due to the development of new public instrument procedures and to support IFR operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Mott, ND [Establish]

Mott Municipal Airport, SD
(Lat 46°21′33″ N, long 102°19′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Mott Municipal Airport.

* * * * *

Issued in Fort Worth, Texas, on November 27, 2023.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2023–26352 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA–2023–0024]

RIN 0960–AI83

Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work; Correction

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: On September 29, 2023, we published a proposed rule entitled *Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work.* The proposed rule inadvertently contained a sentence of regulatory text which should have been removed. We are publishing this document to correct the error.

DATES: December 1, 2023.

ADDRESSES: Mary Quatroche, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or *regulations@ssa.gov.*

For information on eligibility or filing for benefits, visit our internet site, Social Security Online, at *https://www.socialsecurity.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Quatroche, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 966–4794, or *regulations@ssa.gov.* For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *https://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Correction

We published a proposed rule, on September 29, 2023, (88 FR 67135). We propose revising the time period that we consider when determining whether an individual's past work is relevant for purposes of making disability determinations and decisions. That document inadvertently contained a sentence in proposed 20 CFR 416.965(a) on page 67148 in the 2nd column, beginning at line 23, which read, ''The five-year guide is intended to ensure that remote work experience is not currently applied.'' This correction removes that sentence.

■ Correct § 416.965(a) by removing the above sentence. The revised text to read as follows:

§ 416.965 Your work experience as a vocational factor. [Corrected]

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. If you have no work experience or worked only ''off-and-on'' or for brief periods of time during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

* * * * *

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

[FR Doc. 2023–26180 Filed 11–30–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 247, 880, 884, 886, 891, and 966

[Docket No. FR–6387–P–01]

RIN 2501–AE09

30-Day Notification Requirement Prior to Termination of Lease for Nonpayment of Rent

AGENCY: Office of the Secretary, U.S. Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: Under this proposed rule, when tenants who reside in public housing or in properties receiving project-based rental assistance (PBRA) face eviction for nonpayment of rent, public housing agencies (PHAs) and owners would need to provide those tenants with written notification at least 30 days prior to the commencement of a formal judicial eviction procedure for lease termination. For purposes of this proposed rule, PBRA includes projects in the following programs: Section 8 Project-Based Rental Assistance, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC). This proposed rule would curtail preventable and unnecessary evictions by providing tenants with time and information to help cure nonpayment violations.

DATES: Comments are due by January 30, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Members of the public may submit comments by mail to the Regulations

Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all Federal agencies, however, submission of comments by standard mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by standard mail be submitted at least two weeks in advance of the deadline. HUD will make all comments received by mail available to the public at *www.regulations.gov.*

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. All submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD are available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

For Public and Indian Housing: Danielle Bastarache, Deputy Assistant Secretary for Public Housing and Voucher Programs, 451 7th Street SW, Room 4204, Washington, DC 20410, telephone number 202–402–1380 (this is not a toll-free number). For a quicker response, email *publichousingpolicyquestions@hud.gov.*

For Multifamily: Ethan Handelman, Deputy Assistant Secretary for the Office of Multifamily Housing Programs, 451 7th Street SW, Room 6106, Washington, DC 20410, telephone number 202–708–2495 (this is not a toll-free number). For a quicker response, email *mfcommunications@hud.gov.* HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. Background

Evictions Cause Harm to People and Families, and the Harm Is Not Equally Distributed

Eviction has long created housing instability for renter households and is linked to long-term negative consequences, particularly among children.[1] When children are forced to move from their homes, they often experience increased health risks and decreased educational attainment, owing partly to the disrupted social networks of these forced moves.[2] Eviction filings also put households at increased the risks of homelessness, thereby burdening already over-subscribed State resources, including the shelter system.[3] Estimates of the share of evicted households that enter homeless shelters range from 14 percent to 25 percent.[4] Without a steady address, low-income households experience difficulty applying for and maintaining employment. In fact, low-income renters who experience a forced move are more likely to experience a subsequent job loss.[5] Across a range of health and mental health outcomes including depression, anxiety, Body Mass Index (BMI) and mortality, forced moves resulting from eviction are impactful.[6]

People of color, women, and families with children are more likely to be evicted. A 2020 study found Black renters received a disproportionate share of eviction filings and experienced the highest rates of eviction filings and eviction judgments. The study stated that Black and Latinx female renters faced higher eviction rates than their male counterparts.[7] Another study found that almost 15 percent of American children born in large cities between 1998 and 2000 had experienced an eviction by age 15. The percentage was approximately 29

[1] Sandel, Megan, et al. (2018). Unstable housing and caregiver and child health in renter families. Pediatrics 141(2); Cutts, Diana B., et al. (2022). Eviction and household health and hardships in families with very young children. Pediatrics 150(4).

[2] Maxia Dong et al., ''Childhood Residential Mobility and Multiple Health Risks during Adolescence and Adulthood: The Hidden Role of Adverse Childhood Experiences,'' Archives of Pediatrics & Adolescent Medicine 159, no. 12 (2005): 1104–1110; Shana Pribesh and Douglas B. Downey, ''Why Are Residential and School Moves Associated with Poor School Performance?,'' Demography 36, no. 4 (November 1, 1999): 521–34; Kathleen M. Ziol-Guest and Claire C. McKenna, ''Early Childhood Housing Instability and School Readiness,'' Child Development 85, no. 1 (January 1, 2014): 103–13; Philip Garboden, Tama Leventhal, and Sandra Newman, ''Estimating the Effects of Residential Mobility: A Methodological Note,'' Journal of Social Service Research 43, no. 2 (March 15, 2017): 246–61; Amy Ellen Schwartz, Leanna Stiefel, and Sarah A. Cordes, ''Moving Matters: The Causal Effect of Moving Schools on Student Performance,'' Education Finance and Policy, May 18, 2016, 1–47.

[3] Treglia, Daniel, Thomas Byrne, and Vijaya Tamla Rai. 2023. ''Quantifying the Impact of Evictions and Eviction Filings on Homelessness Rates in the United States.'' Housing Policy Debate.

[4] *See* Collinson, R., Reed, D. (2018). *The Effects of Evictions on Low-Income Households* and Innovation for Justice. (2020). *The Cost of Eviction Calculator.* University of Arizona, James E. Rogers College of Law. *https://law.arizona.edu/eviction-calculator. See alsohttps://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html* and National Law Center on Homelessness and Poverty. (2020); Protect Tenants, Prevent Homelessness. *https://nlchp.org/wpcontent/uploads/2018/10/ProtectTenants2018.pdf.*

[5] Desmond, Matthew and Carl Gershenson. 2016. ''Housing and Employment Insecurity among the Working Poor.'' Social Problems. 63(1): 46–67.

[6] Desmond, M., Gershenson, C., & Kiviat, B., Forced Relocation and Residential Instability Among Urban Renters, Journal of Urban Health, 92(2), 254–267 (2015), *https://doi.org/10.1007/s11524-015-9932-2;* Desmond, M., & Shollenberger, T., Forced Displacement from Rental Housing: Prevalence and Neighborhood Consequences, Demography, 52(5), 1751–1772 (2015), *https://doi.org/10.1007/s13524-015-0424-y;* Cutts, D.B., Darby, M.L., & Billings, J., The Role of Housing Assistance in Achieving Educational Goals for Low-Income Children, American Journal of Public Health, 100(S1), S84–S90 (2010), *https://doi.org/10.2105/AJPH.2009.170910;* Desmond, M., & Kimbro, R.T., Eviction's Fallout: Housing, Hardship, and Health, Social Forces, 94(1), 295–324 (2015), *https://doi.org/10.1093/sf/sou065;* HUD (2021), Affordable Housing, Eviction, and Health, Evidence Matters, *https://www.huduser.gov/portal/periodicals/em/Summer21/highlight1.html. See also* Desmond, Matthew, Unaffordable America: Poverty, housing, and eviction, Fast Focus, 22–2015, University of Wisconsin-Madison, Institute for Research on Poverty, 4.

[7] Hepburn, P., Louis, R., & Desmond, M., Racial and Gender Disparities among Evicted Americans. Sociological Science 7, 657 (2020), *https://doi.org/10.15195/v7.a27.*

percent for children living in deep poverty.[8]

HUD does not have public data on the numbers of people in subsidized housing who experience eviction. There is also very limited data on how many people in subsidized households experience homelessness after eviction. However, one California survey of people experiencing homelessness found that 6% of people experiencing homelessness had received some form of subsidy prior to becoming homeless.[9]

Absent Federal Rules and Laws, Tenants Are Subject to a Variable Patchwork of Notice Requirements

HUD-subsidized housing programs make up one portion of the nation's much larger rental housing market. Absent a Federal rule or statute, housing in the rental housing market is subject to the laws of the locality and state where the housing is located.[10] This is the case for both HUD-subsidized housing programs and for the non-subsidized rental housing market.

HUD's Interim Final Rule Already Requires 30 Days of Notice for Certain Subsidized Tenants Facing Eviction for Nonpayment of Rent

On October 7, 2021, HUD published an interim final rule titled ''Extension of Time and Required Disclosures for Notification of Nonpayment of Rent'' (the interim final rule), to assist with the response to the national COVID–19 pandemic and future national emergencies (86 FR 55693, October 7, 2021). HUD, along with other Federal agencies, responded to the national emergency declaration during the COVID–19 pandemic [11] with efforts to support families impacted financially by the COVID–19 pandemic and at risk of losing their housing.[12]

Under the interim final rule, the Secretary can extend the time period before lease termination for nonpayment of rent to a minimum of 30 days. Pursuant to the interim final rule, HUD issued a joint Public and Indian Housing (PIH) and Housing notice on October 7, 2021 (Notice PIH 2021–29 and H 2021–06).[13] The rule also provides that the Secretary may require that PHAs and PBRA owners provide tenants with information regarding any Federal funding that is made available to prevent eviction for nonpayment of rent during a national emergency (such as funding through the Emergency Rental Assistance Program created in response to the COVID–19 pandemic).[14]

In response to the interim final rule, many commenters expressed their support for adequate notice prior to eviction. Commenters said that sufficient notice provides tenants the opportunity to apply for rent recalculation if their family circumstances warranted such a request or obtain other support available to them, and that the requirement for 30-day notice prior to eviction should not be limited to times of a Presidentially declared national emergency. HUD agrees with these commenters, and in this proposed rule, HUD is extending the 30-day notice requirement (the 30-day notice) to situations outside of a national emergency. Some commenters expressed concerns, stating for example: the eviction notice timeline should be longer and cover all reasons for eviction; the rule does not provide protections to tenants with existing eviction cases; the notice template provided by HUD is likely not accessible for most tenants who may be individuals with disabilities; the rule should extend protections to all renters in federally assisted housing, including Housing Choice Voucher (HCV) and Project Based Voucher (PBV) holders; the rule's protections should also extend to rental assistance demonstration (RAD) PBV properties; and extending eviction notice requirements cause landlords to lose an additional month of income, and that postponing evictions for nonpayment of rent merely delays evictions, reduces operating income, and increases costs to landlords. HUD looks forward to the public comments received on this proposed rule now that owners and PHAs have had experience implementing the interim final rule.

Before 2021, HUD Regulated Eviction for Non-Payment and Notices in Program-Specific Ways

Prior to the interim final rule, HUD's regulations and statutory authorities regulated eviction for non-payment and the timing of eviction notices only in certain scenarios for particular HUD programs. In some cases, these provisions were imposed by Congress via statute, while in others, the provisions were imposed by HUD regulations.

Pre-2021 requirements around notice and/or non-payment:

[8] Lundberg, I., & Donnelly, L., A Research Note on the Prevalence of Housing Eviction Among Children Born in U.S. Cities, Demography, 56(1), 391–404 (2019). *https://doi.org/10.1007/s13524-018-0735-y.*

[9] The California Statewide Study of People Experiencing Homelessness at 33 (June 2023), available at *https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH_Report_62023.pdf.*

[10] The laws of many States and localities around notice requirements may be found in a database created and managed by the Legal Services Corporation: *https://www.lsc.gov/initiatives/effect-state-local-laws-evictions/lsc-eviction-laws-database. See also* National Conference of State Legislatures, ''Family-Friendly Courts: State Legislatures' Role in Improving Eviction Proceedings,'' June 28, 2023, *https://www.ncsl.org/human-services/family-friendly-courts-evictions;* Bradford, Ashley C. and Bradford, W. David, The Effect of State and Local Housing Policies on County-Level Rent and Evictions in the United States, 2004–2016 (September 30, 2021). Available at SSRN: *https://ssrn.com/abstract=3623318* or *http://dx.doi.org/10.2139/ssrn.3623318;* Sudeall, Lauren and Pasciuti, Daniel, Praxis and Paradox: Inside the Black Box of Eviction Court (March 2, 2021). 73 Vanderbilt Law Review 1365 (2021), Georgia State University College of Law, Legal Studies Research Paper No. 2021–19, Available at SSRN: *https://ssrn.com/abstract=3796279.*

[11] *See* 42 U.S.C. 5121 *et seq.; see also* The White House, *A Letter on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic,* Feb. 24, 2021, *https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/24/a-letter-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/.*

[12] *See, e.g.,* HUD, *Mortgagee Letter 2020–04: Foreclosure and Eviction Moratorium in Connection with the Presidentially Declared COVID–19 National Emergency,* Mar. 18, 2020, *https://www.hud.gov/sites/dfiles/OCHCO/documents/20-04hsgml.pdf;* U.S. Dep't of Agriculture, *Stakeholder Announcement: USDA Announces Guaranteed Housing Foreclosure and Eviction Relief,* Mar. 19, 2020, *https://www.rd.usda.gov/node/17107.*

[13] *https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2021-29.pdf.*

[14] *See* U.S. Dep't of the Treasury, *Emergency Rental Assistance Program, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program.*

Program(s)	Regulation	Summary of provision
Public housing	24 CFR 966.4	*Non-payment, notice:* In the case of termination for nonpayment of rent, a PHA shall provide at least fourteen days' written notice.
Project-based rental assistance programs.	24 CFR 247.4(c)	*Non-payment, notice:* For termination for nonpayment of rent, a termination notice must be provided with enough advance time to comply with both the rental agreement or lease and State laws. *Notice:* For termination of tenancy for ''other good cause,'' HUD regulations require 30 days' notice along with the provision of specific information to the tenant.
Project-Based Section 8	24 CFR 880.607(c)(2); 24 CFR 247.4(c).	*Non-payment notice:* For termination for nonpayment of rent, the time of service must be in accord with the lease and State law. *Notice:* For termination of tenancy for ''other good cause,'' HUD regulations require 30 days' notice along with the provision of specific information to the tenant.
Section 8 Moderate Rehabilitation Program.	24 CFR 882.511(d)(1)(i)	*Non-payment, notice:* Five working days notice required before tenancy termination for non-payment.

Outside of the specific requirements in authorizing statutes and HUD regulations for specific HUD programs, housing providers have also been required to comply with the laws of the States and localities where particular HUD-subsidized housing is located. HUD estimates that approximately 70% of HUD-assisted households for public housing and project-based rental assistance live in States that require housing providers to provide tenants with an eviction notice for nonpayment of rent 7 days or less before eviction, 26% of these households live in States that require 8–14 days, and 3% live in States that require 15–30 days.[15]

Additionally, eviction actions must be consistent with and must not be discriminatory under applicable Federal civil rights laws. *See* 24 CFR part 5, subpart A and 24 CFR part 5, subpart L. HUD has broad investigatory and enforcement powers, relevant to eviction, under these civil rights authorities, including but not limited to, the Fair Housing Act, the Americans with Disabilities Act, section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act, and the Violence Against Women Act (VAWA). Each of these laws provides additional protections against unlawful discrimination for certain individuals and groups facing eviction from HUD-subsidized housing. In particular, the Fair Housing Act, section 504 of the Rehabilitation Act, and the Americans with Disabilities Act require housing providers, among other requirements, to consider and provide reasonable accommodation to individuals with disabilities during all stages of the housing process, including during eviction. Under Title VI of the Civil Rights Act, subsidized housing providers are required to provide limited English proficient persons with meaningful access to their programs and services. This includes providing language assistance services to limited English proficient persons during eviction. HUD also has guidance around language access that should be interpreted to govern notice provisions.[16]

Under VAWA, a covered housing provider cannot evict on the basis or as a direct result of the fact that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. *See* 24 CFR part 5, subpart L, and program-specific regulations. Also, an eviction cannot penalize someone based on their requests for assistance or based on criminal activity of which they are a victim or otherwise not at fault under statutes, ordinances, regulations, or policies adopted or enforced by covered governmental entities. *See* 34 U.S.C.A. 12495. The protections afforded under these authorities are broad and HUD can enforce them with respect to eviction actions for nonpayment of rent.

Non-Payment Evictions From HUD-Assisted Housing May Be Preventable

Most households in HUD-subsidized housing are low-income, with annual household incomes for households in the public housing and project-based Section 8 programs both under $16,000.[17] These households have limited financial reserves, leaving them especially vulnerable to income shocks or financial emergencies. Tenants in HUD-assisted housing typically pay rent based on their incomes and need adequate time after they experience a drop in income to work with their housing provider to document that change and ensure their rent is properly calculated based on their financial circumstances. Providing more time and notice may help the household and their housing provider to work together to pursue a minimum rent hardship exemption and/or rent recalculation to adjust the amount of rent a tenant will owe. Prior to and as an alternative to a formal judicial eviction proceeding, PHAs and owners must work with tenants to recalculate rent and may make appropriate repayment plans which can then make a formal judicial eviction filing for non-payment of rent unnecessary.

Many HUD-assisted households pay an amount of rent that is based on their incomes. When HUD-assisted households experience a reduction in income, they may request an interim reexamination to determine whether the amount of rent they pay should be changed.[18]

HUD-assisted households can also request a hardship exemption. A minimum rent hardship exemption is an exemption from paying the minimum rent that the PHA or owner normally charges, allowing the household to pay as little as zero dollars in rent if the household has experienced a qualifying financial hardship.[19] A qualifying financial hardship includes when a family would be evicted because the family is unable to pay the minimum rent.[20] Whether a household is granted a minimum rent hardship exemption will depend on whether the family has

[15] Estimate based on HUD's cross-reference on distribution of subsidized households across States with external analysis of legal requirements per State for non-payment of rent notice (*https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html*).

[16] **Federal Register** Notice, FR–4878–N–02, Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.

[17] Data available at *https://www.huduser.gov/portal/datasets/assthsg.html*.

[18] 24 CFR. 960.257(b); *see also https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Reexaminations_FINAL.pdf* and *https://www.hud.gov/sites/documents/43503c5HSGH.PDF*.

[19] 24 CFR 5.630, *see also* Public Housing Minimum Rent and Hardship Exemption Requirements Toolkit, HUD Exchange, *https://www.hudexchange.info/programs/public-housing/public-housing-minimum-rent-and-hardship-exemption-requirements-toolkit/* and the specific additional circumstances that qualify as qualifying financial hardships in the PHA's or Multifamily housing (MFH) owner's ACOPs (Admissions and Continued Occupancy Policy), Administrative Plans, or Tenant Selection Plans, as applicable.

[20] 24 CFR 5.630(b)(1)(ii).

experienced a qualifying financial hardship.[21] A minimum rent hardship may be temporary or long term and a PHA may not evict a family for non-payment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.[22] They are granted a rent recalculation, depending on the amount of the income reduction, and the intention is for the family to experience a rent reduction, if the family's income decreases.[23]

Even where households do not qualify for such measures, such as when the income reduction does not meet the threshold requirement for an interim reexamination or qualify for a hardship exemption in accordance with the multifamily housing owner's or PHA's ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, the family may still be able to arrange repayment plans that allow tenants to remain housed and make the PHA or owner whole, subject to PHA/owner discretion. For example, one manager of approximately $14 billion of largely affordable and military housing was able to successfully use tenant supports that included affordable, longer-term, fee-free repayment plan options to prevent formal judicial eviction filings and save money that otherwise would have been spent on costly eviction proceedings.[24] HUD has issued guidance on creating reasonable and affordable repayment agreements for unpaid rent that keep households stably housed.[25]

While HUD programs enable residents to report changes in incomes through income recertification and hardship waivers, a 30-day notice requirement provides tenants with more time to report income changes before housing providers commence a formal judicial eviction proceeding. A 30-day notice requirement also allows time for tenants and PHAs or owners to negotiate repayment plans. Independent research also confirms that longer notice periods are correlated to a lower eviction filing rate.[26] As discussed in the Regulatory Impact Analysis for this proposed rule, given the size of the HUD programs in 2022, it is estimated that between 1,600 and 4,900 nonpayment related moveouts in Public Housing and PBRA-assisted housing are prevented each year because of the existing 30-day notice requirements of the CARES Act and HUD's interim final rule.

II. Proposed Rule

HUD is proposing to amend its regulations to require that tenants in properties with project-based rental assistance (PBRA) [27] and tenants in public housing be provided with written notification at least 30 days prior to lease termination resulting from nonpayment of rent (the 30-day notice). For PBRA and public housing, HUD would be setting a minimum requirement, so owners and PHAs may provide a longer notice period if they wish to.

This proposed rule would revise HUD's regulations in 24 CFR parts 247, 880, 884, 886, 891, and 966 to provide for a 30-day notification requirement prior to evicting a tenant for nonpayment of rent, regardless of the availability of Federal funding to prevent eviction due to a presidentially declared national emergency. That is, the 30-day notification requirement from the interim final rule would be generally applicable and would no longer be contingent on the existence of a national emergency and the availability of emergency rental assistance funds.

The proposed rule would also require that the 30-day notice include instructions on how tenants can cure lease violations for nonpayment of rent. These instructions would allow tenants to clearly understand how to avoid the commencement of a formal judicial eviction proceeding for non-payment of rent. Instructions on how the tenant can cure the nonpayment of rent violation would include the alleged amount of rent owed by the tenant, any other arrearages allowed by the HUD program, and the date by which the tenant must pay the rent and arrearages to avoid the filing of an eviction action in State court against the tenant's household. The proposed rule would also require that the 30-day notice include information on how tenants can recertify their income and how tenants can request a minimum rent hardship exemption if applicable.

HUD also recommends the best practice of entering into a rental repayment agreement as an alternative to a lump-sum payment for past due amounts. PHAs are also encouraged to include information about how to switch from flat rent to income-based rent.

The 30-day notice must be provided in accessible formats to ensure effective communication for individuals with disabilities, and in a form to allow meaningful access for persons who are limited English proficient (LEP). PHAs and owners must comply with the nondiscrimination requirements contained in Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 along with HUD's regulations implementing those laws. Title VI's requirements with respect to national origin discrimination including meaningful access for people with limited English proficiency are set forth in HUD's ''Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons'' issued on January 22, 2007 and available at *https://www.hud.gov/sites/documents/FINALLEP2007.PDF*.

Additionally, HUD suggests the 30-day notice advise individuals of their right to request reasonable accommodations, include information on how individuals with disabilities can request reasonable accommodation, and include a point of contact for reasonable accommodation requests. There are instances in which a tenant may be entitled to a reasonable accommodation in cases of non-payment of rent.[28] For example, if a housing provider usually requires rent be paid on the 1st of the month, but a tenant receives disability-related government assistance later in the month, the housing provider may be required to accept a tenant's request to

[21] Circumstances that always constitute a qualifying financial hardship are detailed in 24 CFR 5.630(b)(1)(i)–(iv); additional circumstances are provided by the housing provider in the PHA's or Multifamily housing (MFH) owner's ACOPs (Admissions and Continued Occupancy Policy), Administrative Plans, or Tenant Selection Plans, as applicable.

[22] 24 CFR 5.630(b)(2).

[23] Section 3(a) United States Housing Act of 1937, as amended by section 102 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA), Public Law 114–201, 130 Stat. 782. Also see, HUD's implementing regulations at 24 CFR 5.657(c)(2), 882.515(b)(2), 891.410, 960.257(b)(2), and 982.516(c)(2).

[24] King, S. (2021). How One of Boston's Top Evictors Changed Its Ways. Shelterforce. *https://shelterforce.org/2021/12/03/how-one-of-bostons-top-evictors-changed-its-ways/*.

[25] Repayment Agreement Guidance, PIH. *https://www.hud.gov/sites/dfiles/PIH/documents/Attachment4_Repayment_Agreement_Guidance.pdf*.

[26] Gromis, A., et al., Estimating Eviction Prevalence Across the United States, Proceedings of the National Academy of Sciences of the United States of America, 6 (2022.) *https://doi.org/10.1073/pnas.2116169119*.

[27] For purposes of this proposed rule, PBRA includes projects in the following programs: Section 8, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 811 Project Rental Assistance Program (811 PRA), and Senior Preservation Rental Assistance Contract Projects (SPRAC).

[28] *See* Joint Statement of HUD and DOJ, ''Reasonable Accommodations Under the Fair Housing Act'' (May 17, 2004), *available at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf*.

pay rent on this later date as a reasonable accommodation.[29]

Once this rule is finalized, HUD plans to issue sample language that PHAs and owners may use. PHAs and owners would also be permitted to draft their own notices if those notices included the required contents laid out in the final version of the rule. HUD will follow the Plain Writing Act of 2010 and the Paperwork Reduction Act when drafting these notices. The agency will also consider best customer experience practices to ensure the sample language is easy to use and understand for tenants, PHAs, and owners. As HUD provides model notices and other guidance to assist with implementation of this proposed rule, HUD is interested in comments on how to ensure tenant-directed materials such as model leases and notices follow the principles of plain writing, user-centered design, and equitable design.

PHAs and owners would be required to serve this 30-day notice to a tenant or household. Prior to filing a formal judicial eviction, PHAs and owners must ensure that at least 30 days pass following the service of this notice. Some States, localities and territories may have additional timing requirements for serving notices on tenants for non-payment of rent.[30] The timing for the service of non-payment of rent notices required under State or local law may run concurrently with the timing requirements of this 30-day notice, unless State or local law requires that such notice be consecutive. Regardless of State or local laws on the timing of non-payment notices, owners and PHAs regulated by this rule must ensure that they do not file a formal judicial eviction until at least 30 days have passed following the service of the notice mandated by this rule. HUD notes the requirements under this rule, including its proposed requirement that the 30-day notice may run consecutive to any additional State or local notice requirements if required by State or local law, do not preempt any State or local law that provides greater or equal protection for tenants.

Furthermore, this rule would require that PHAs and owners amend all current and future leases to properly incorporate the 30-day notice requirement for nonpayment of rent. PHAs and owners would also need to provide tenants with notification of changes to the lease under existing requirements in 24 CFR 880.607(d) and 24 CFR 966.3. Section 880.607(d) requires that an owner, when modifying a lease, serve appropriate notice to tenants at least 30 days prior to the last date on which a tenant has the right to terminate tenancy. This provision applies to PBRA projects under 24 CFR parts 880, 881, and 883 (The New Construction, Substantial Rehab and Housing Finance Agency (HFA) programs). Section 966.3 requires a PHA to provide at least 30 days' notice to tenants of proposed changes to the lease, and an opportunity for tenants to present written comments.

HUD understands that it will take time for PHAs and owners to incorporate the 30-day notice requirement into leases and to provide notification that the leases will be modified. Accordingly, HUD proposes to provide PHAs with an additional 18 months after this rule becomes effective to comply with the requirement that the lease contain a provision or addendum incorporating the 30-day notice requirement. Since HUD will issue model leases for PBRA programs, this rule would provide PBRA owners with 14 months from the date that HUD publishes a final model lease that complies with the rule to comply with the requirement to update the lease. HUD plans to issue model leases within a year of the effective date of this rule. HUD will issue a **Federal Register** document to advise the public once the new model leases are available.

Additionally, the proposed rule incorporates the interim final rule's requirement that, in the event of a presidentially declared national emergency, PHAs and owners would also need to provide tenants with other specified information, as required by the Secretary, to prevent eviction for nonpayment of rent. This proposed rule would permit the agency flexibility in the case of any presidentially declared national emergency to require additional information in the 30-day notice. Unlike the interim final rule, there is no requirement in this proposed rule that PHAs and owners must include notification of available emergency rental assistance funds. Rather this proposed rule would provide the flexibility to the Secretary to require this information, or other information, depending on the circumstances of a given national emergency.

HUD has considered the perspectives of stakeholders and subject matter experts in drafting this rule. The Department routinely hears from and carefully considers the perspectives of PHAs and owners, and the multiple associations that represent those PHAs and owners. The Department has also solicited the perspectives of tenants in HUD-subsidized housing and the perspectives of people who provide support and legal representation to those tenants. HUD has conducted listening sessions with tenants who reside in HUD-subsidized housing. HUD has also consulted with non-profit legal service providers who represent subsidized tenants in eviction proceedings and other eviction prevention actions. In addition, HUD has considered the perspectives of scholars and legal experts who study eviction prevention and has reviewed key decisions related to evictions made by State courts.

Preventable Evictions Frustrate HUD's Mission

HUD's authorizing statutes require the Department to provide for full and appropriate consideration of the people who live and work in the Nation's communities [31] and to work toward the goal of ''a decent home and a suitable living environment for every American family''—especially for lower-income families.[32] The programs that would be subject to this proposed rule perform an essential function toward the goal of ensuring a decent home for lower-income families.

In most cases, program participant owners and PHAs collect rent from tenants and may evict low-income tenants for non-payment of rent. A number of legal service providers for low-income tenants have reported an uptick in eviction cases for non-

[29] *See* Fair Housing for Individuals with Mental Health, Intellectual or Developmental Disabilities: A Guide for Housing Providers (''What are reasonable accommodations and modifications? . . . Asking to change the due date for rent until after receipt of a social security disability heck or a short- or long-term disability payment . . .''), *available at https://www.hud.gov/sites/dfiles/FHEO/images/MD%20Fact%20Sheet%20-%20HP.pdf. See also* Initial Decision and Consent Order, HUD v. *Park Regency LLC et al.* (October 29, 2020), *available at https://www.hud.gov/sites/dfiles/FHEO/images/20HUDOHA_InitDecisionConsent.pdf* (providing the reasonable accommodation of a fee-free rent payment grace period until the 6th of each month and paying $27,000 to complainant); *Fair Hous. Rts. Ctr. in Se. Pennsylvania* v. *Morgan Properties Mgmt. Co., LLC,* 2017 WL 1326240, at *4 (E.D. Pa. Apr. 11, 2017) (Denying defendants' motion for judgement and allowing a civil rights suit to proceed where defendant, the owner of three apartment buildings, refused to agree to accept monthly rent payments on a later date each month where the later monthly payment timing was due to the plaintiffs' disability and receipt of financial disability benefits.); Charge of Discrimination, HUD v. Morbach et al. (March 20, 2006), *available at https://www.hud.gov/sites/documents/DOC_14412.PDF.*

[30] *See* the Legal Services Corporation's comprehensive guide to local eviction laws here: *https://www.lsc.gov/initiatives/effect-state-local-laws-evictions/lsc-eviction-laws-database.*

[31] 42 U.S.C. 3531.

[32] Section 2 of the Housing Act of 1949; section 2 of the Housing and Urban Development Act of 1968.

payment of rent in public housing compared to pre-pandemic levels.[33] HUD is proposing to amend its regulations to provide adequate notice and key information to tenants facing non-payment of rent cases to reduce the number of preventable evictions filed against tenants in HUD-assisted housing.

Preventable evictions for non-payment of rent in HUD-assisted housing hinder the Department's work and frustrate HUD's programmatic efficiency. Accordingly, by reducing preventable evictions, this proposed rule would advance HUD's statutory purposes.

PHAs and Owners Have Already Demonstrated Their Capacity To Comply With These Proposed Changes

PHAs and owners of properties receiving PBRA have already demonstrated their capacity to comply with a 30-day notice requirement prior to an eviction, as demonstrated by their compliance with HUD's interim final rule. PHAs and owners showed that they could provide the required minimum 30-day notification to terminate a lease for nonpayment of rent during the COVID–19 national emergency. In addition, the CARES Act 30-day notice to vacate requirement for nonpayment of rent, in section 4024(c)(1), is still in effect for all CARES Act covered properties.[34] HUD also currently already requires 30-day tenant notification related to certain types of evictions in PIH and Multifamily programs unrelated to nonpayment of rent.[35] Some jurisdictions have also already imposed their own 30-day eviction notice requirements on housing providers related to nonpayment of rent and other causes.[36]

This Proposed Rule Would Align Non-Payment Requirements Across HUD Programs

This proposed rule would simplify requirements across many HUD programs by creating one clear floor and simple standards around how and when notice for lease termination due to non-payment of rent should be provided. In most cases, the regulated programs are already subject to regulatory restrictions around how and when tenants are notified of lease termination due to non-payment of rent. Since in many cases funding for affordable housing can come from multiple sources, this proposed rule would also align the requirements to match that of another key HUD program, the HOME program, which is often combined with some of the programs covered by this rule.[37]

This Rule May Assist PHAs and Owners To Resolve Rental Arrears

Owners and PHAs fund the housing they provide by relying both on HUD's portion of rental subsidies and on tenant rent payments. The portion of rent that tenants in assisted housing must pay is set by Federal law and may vary when tenants experience fluctuations in income. Tenants are responsible for paying the portion of rent assigned to them. In most cases, tenants are responsible for informing the PHA or owner when they experience an income fluctuation that would result in a rent recalculation or hardship waiver. Housing providers face financial uncertainty when tenants do not pay their rent and also face a costly process with formal judicial eviction proceedings. It is generally more cost-efficient for housing providers to assist tenants in curing their non-payment of rent, for example by first providing notice as would be required by this rule, as opposed to evicting tenants for non-payment of rent.[38]

HUD looks forward to receiving comments on this proposed rule for how to make this workable for different types of HUD stakeholders.

Statutory Authority and Consistency With Current Regulations

HUD has general rulemaking authority under 42 U.S.C. 3535 to implement its statutory mission, which is to provide assistance for housing to promote ''the general welfare and security of the Nation and the health and living standards of [its] people.'' [39] Each year, HUD provides States, local governments, and housing providers with billions of dollars in Federal financial assistance, appropriated and authorized by Congress. By taking the actions described here, HUD would prevent unnecessary evictions and the costs associated with those evictions for tenants, PHAs, and owners, as compelled by HUD's mission. Please see the Regulatory Impact Analysis for further discussion of such costs. These actions would promote the general welfare and security of the Nation by avoiding the societal costs and ills of housing instability brought on by evictions.

HUD also has specific statutory authority under the U.S. Housing Act of 1937 to prescribe procedures and requirements for PHAs to follow to

[33] *See, e.g.,* National Housing Law Project. (2022). Rising Evictions in HUD-Assisted Housing: Survey of Legal Aid Attorneys. *https://www.nhlp.org/wp-content/uploads/HUD-Housing-Survey-2022.pdf.*

[34] *See* Public Law 116–136, 134 Stat. 281 (2020); 15 U.S.C. 9058 (''The lessor of a covered dwelling unit [. . .] may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate.'' *See also Sherwood Auburn LLC* v. *Pinzon,* 521 P.3d 212 (Wash. Ct. App. 2022), *review denied,* 526 P.3d 848 (Wash. 2023); *In re: Arvada Village Gardens LP* v. *Ana Garate,* 2023 WL 3444733 (Colo. 2023); *W. Haven Hous. Auth.* v. *Armstrong,* 2021 WL 2775095, at *3 (Conn. Super. Ct. Mar. 16, 2021) (all cases affirm the ongoing applicability of this 30 day notice to covered dwelling units).

[35] *See* 42 U.S.C. 1437d(l); 24 CFR 966.4(l)(3)(i)(B)), and 24 CFR 966.4(l)(3)(i) (providing for a 30-day notice period for evictions from public housing in certain situations). The section 8 project-based rental assistance programs require 30 days' notice when the grounds for eviction is ''other good cause.'' State law and the lease govern the length of the notice period for material noncompliance with lease, noncompliance with State law, or criminal activity/alcohol abuse. 24 CFR 880.607, 24 CFR 247.4(e); 90105a Model Lease, Handbook 4350.3 para. 8–13–B 2(e) (PBRA). Section 202/811 programs require 30-day notice for all eviction grounds. Section 202 PRAC: 24 CFR 891.430(b), 90105c Model Lease para. 8(b)(1); Section 811 PRAC: 42 U.S.C. 8013(i)(2)(B), 24 CFR 891.430(b), 90105d Model Lease para. 8(b)(1); Section 202/8: 24 CFR 891.630(b), Model Lease para. 9(b) (HUD–90105–b); Section 202/162: 24 CFR 891.770(b) Model Lease para. 9(b) (HUD–90105–b); Section 811 PRA: 42 U.S.C. 8013(i)(2)(B), Model Lease para. 8(b) (HUD–92236–PRA); SPRAC: Section 2.6(b) of SPRAC II (HUD–93742a).

[36] *See, e.g.,* D.C. Code sec. 42–3505.01 (''A housing provider shall provide the tenant with notice of the housing provider's intent to file a claim against a tenant to recover possession of a rental unit for the non-payment of rent at least 30 days before filing the claim.''); Wis. Stat. sec. 704.17(3)(a) (''If a tenant under a lease for more than one year fails to pay rent when due . . . the tenancy is terminated if the landlord gives the tenant notice requiring the tenant to pay the rent . . . on or before a date at least 30 days after the giving of the notice, and if the tenant fails to comply with the notice.''); 21 Guam Code Ann. Sec. 48401(b) (''If rent is unpaid when due and the tenant fails to pay rent five (5) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement thirty (30) days after receipt of notice.''); V.I. Code Ann. tit. 28, sec. 843 (''In any action for the recovery of possession of rented premises, written notice to quit must have been served upon the tenant or person in possession for a period of 30 days before the commencement of such action.'').

[37] *See, e.g.,* requirements for the HOME Investment Partnerships Program (HOME), which requires 30 days' notice before terminating or refusing to renew tenancy. *See* 24 CFR 92.253(c) (''To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.'') The HOME program statute requires not less than 30 days' notice unless the grounds for tenancy termination involve direct threat to the safety of tenants or employees or serious threat to property. *See* 42 U.S.C. 12755(b).

[38] *See, e.g.,* Philip M.E. Garboden and Eva Rosen. 2019. ''Serial Filing: How Landlords Use the Threat of Eviction,'' *City & Community* 18:2, 638, 646; Gretchen Purser. 2014. ''The Circle of Dispossession: Evicting the Urban Poor in Baltimore,'' *Critical Sociology* 42:3, 393, 401.

[39] 42 U.S.C. 3531.

ensure sound management practices and efficient operations.[40] Even more specifically, HUD has the authority to establish ''procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent.'' [41] HUD also has authority to specify procedures that ensure tenants receive the elements of due process, such as notice of relevant information, before adverse action is taken against them.[42]

The Secretary has explicit authority to require that certain terms and conditions be included within leases for HUD-assisted housing,[43] including that public housing agencies provide certain specified notice periods and other procedural protections before different types of eviction proceedings.[44] The Secretary also has statutory authority to establish requirements for PBRA.[45] This statutory authority provides that during the lease term, the owner must not ''terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause[.]'' [46] The Secretary is also authorized to provide additional terms and conditions that must be incorporated into the tenant's lease.[47] This proposed rule is consistent with the statutory restrictions placed on program participants under this authority.

For lease termination for nonpayment of rent in HUD's PBRA programs, the regulations currently provide that a termination notice must be provided with enough advance time to comply with both the rental agreement or lease and State laws.[48] *See* 24 CFR 247.4(c); 24 CFR 880.607(c)(2). By contrast, for termination of tenancy for ''other good cause,'' HUD regulations require 30 days' notice along with the provision of specific information to the tenant.[49]

With this rulemaking, HUD will better protect assisted tenants from preventable evictions, increase HUD program's operational efficiency, and ensure HUD is fulfilling its statutory duties. The agency takes these actions pursuant to its rulemaking authority [50] and statutory authority for the public housing and PBRA programs.[51]

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. This rule was determined to be a ''significant regulatory action'' as defined in section 3(f) of the order. HUD has prepared an initial regulatory impact analysis and has assessed the potential costs and benefits, both quantitative and qualitative, of this proposed regulatory action and has determined that the benefits would justify the costs. The analysis is available at *regulations.gov* and is part of the docket file for this rule.

Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. HUD believes that this proposed rule would provide added protections for tenants and is consistent with Executive Order 13563.

The proposed rule would revise 24 CFR parts 247, 880, 884, 886, 891, and 966 to update HUD's regulation to curtail preventable and unnecessary evictions by providing tenants time and information to help cure nonpayment violations. This proposed rule would also improve HUD's programmatic efficiency by ensuring resources are not diverted to cover the costs of unnecessary evictions and by preventing homelessness.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

Environmental Review

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this proposed rule in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection at *www.regulations.gov.*

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule proposes to limit preventable and unnecessary evictions by providing tenants with time and information to help cure nonpayment violations.

HUD anticipates that there will be minimal costs for this proposed rule since PHAs and owners are already required to comply with the CARES Act 30-day notice to vacate requirement for nonpayment of rent in Section 4024(c)(1). Additionally, the paperwork burden and compliance costs for PHAs and owners will be minimal since HUD already requires written notice for nonpayment of rent and will provide the information that PHAs and owners need to meet requirements.

HUD estimates the number of small entities for PHAs as 2,102. At this time, HUD is unable to provide an accurate estimate of small PBRA owners because we do not always know whether there is a corporate structure behind an individual owner. As noted in the

[40] 42 U.S.C. 1437d(c)(4).

[41] 42 U.S.C. 1437d(c)(4)(B).

[42] 42 U.S.C. 1437d(k).

[43] 42 U.S.C. 1437d(a).

[44] 42 U.S.C. 1437d(l).

[45] 42 U.S.C. 1437f(g) (section 8 low-income housing assistance); 12 U.S.C. 1701q (section 202 supportive housing for the elderly); 42 U.S.C. 8013 (section 811 supportive housing for persons with disabilities).

[46] 42 U.S.C. 1437f(d)(1)(B)(ii). *See also* 42 U.S.C. 8013(i)(2)(B) (section 811).

[47] 42 U.S.C. 1437f(d)(1)(B)(iv).

[48] The time period required by State laws can vary from 0 days to 30 days depending on the jurisdiction. *See* NOLO, *State Laws on Termination for Nonpayment of Rent, https://www.nolo.com/legal-encyclopedia/state-laws-on-termination-for-nonpayment-of-rent.html* (last updated Dec. 10, 2020) (citing W.Va. Code section 55–3A–1 (no notification period), Fla. Stat. Ann. sec. 83.56(3) (3 days); Idaho Code section 6–303(2) (3 days) and D.C. Code Ann. section 42–3505.01 (30 days)).

[49] *See* 24 CFR 880.607(c)(1) (stating that the notice must provide the grounds for termination and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.)

[50] 42 U.S.C. 3535.

[51] 42 U.S.C. 1437d(l); 42 U.S.C. 1437f(g) (section 8 project based rental assistance); 12 U.S.C. 1701q (section 202 supportive housing for the elderly); 42 U.S.C. 8013 (section 811 supportive housing for persons with disabilities).

Regulatory Impact Analysis for this proposed rule, the added cost of sharing information as required by this proposed rule is minimal since PHAs and owners already have to provide written notice before taking adverse action for nonpayment of rent. This rule would only change the information on the notice. The burden of developing the content of the notice would be minimal since HUD will supply the information that providers will have to give to tenants. The PRA burden for small entities would be the same as for larger ones or approximately, $90 for each PHA, and $137 for each PBRA owner. As noted above, we do not have an accurate number of small PBRA owners, and we estimate the number of small PHAs as 2,102.

Therefore, the undersigned certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule would not have Federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control numbers 2577–0006 and 2502–0178.

The proposed rule would require that PHAs and owners covered by this rule include in termination notices for non-payment of rent instructions on how the tenant can cure the nonpayment of rent violation, information on how the tenant can recertify their income and how the tenant can request a hardship exemption, and, in the event of a presidentially declared national emergency, such information to tenants as required by the Secretary. This would require a one-time revision to termination notices. This rule would also require that PHAs and owners revise leases one time so they include a provision or addendum that tenants would be provided with written notification at least 30 days prior to lease termination for nonpayment of rent. Additionally, PHAs and owners are required under 24 CFR 880.607(d) and 24 CFR 966.3 to provide tenants with a one-time notice about the revisions in the lease. The overall reporting and recordkeeping burden to revise termination notices and leases is estimated as follows:

Number of Responses (PBRA Owners and PHAs): 26,242.

Hours per Response: 3.

Total Hours: 78,726.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in the proposed rule regarding:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Whether the proposed collection of information enhances the quality, utility, and clarity of the information to be collected; and

(4) Whether the proposed information collection minimizes the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this rule. The proposed information collection requirements in this rule have been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication. This time frame does not affect the deadline for comments to the agency on the proposed rule. Comments must refer to the proposed rule by name and docket number (FR–6085) and must be sent to:HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: 202–395–6947 and Colette Pollard, HUD Reports Liaison Officer, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 2204, Washington, DC 20410.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

List of Subjects

24 CFR Part 247

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 880

Accounting, Administrative practice and procedure, Government contracts, Grant programs—housing and community development, Home improvement, Housing, Housing standards, Low and moderate income housing, Manufactured homes, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 884

Accounting, Administrative practice and procedure, Grant programs—housing and community development, Home improvement, Housing, Low and moderate income housing, Public assistance programs, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas, Utilities.

24 CFR Part 886

Accounting, Administrative practice and procedure, Government contracts, Grant programs—housing and community development, Home improvement, Housing, Lead poisoning, Low and moderate income housing, Mortgages, Public assistance programs,

Rent subsidies, Reporting and recordkeeping requirements, Utilities, Wages.

24 CFR Part 891

Aged, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Public assistance programs, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 966

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD amends 24 CFR parts 247, 880, 884, 886, 891, and 966 as follows:

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

■ 1. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, and 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

■ 2. In § 247.4, revise the last sentence in paragraph (c) and revise paragraph (e) to read as follows:

§ 247.4 Termination notice.

* * * * *

(c) * * * In cases of nonpayment of rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant of the termination notice.

* * * * *

(e) *Notice requirements in rent nonpayment cases.* In any case in which a tenancy is terminated because of the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity set forth in paragraph (a)(2) of this section. All termination notices in cases of nonpayment of rent must also include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent violation;

(2) Information on how the tenant can recertify their income and, for tenants residing in projects assisted pursuant to a housing assistance payments contract for project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f), information on how the tenant can apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(3) In the event of a Presidential declaration of a national emergency, such information to tenants as required by the Secretary.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

■ 3. The authority citation for part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

■ 4. In § 880.606, redesignate paragraph (b) as paragraph (c) and add new paragraph (b) to read as follows:

§ 880.606 Lease requirements.

* * * * *

(b) *Notification for nonpayment of rent.* The lease must also contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

* * * * *

■ 5. In § 880.607, revise paragraph (c)(6) to read as follows:

§ 880.607 Termination of tenancy and modification of lease.

* * * * *

(c) * * *

(6) In the case of failure to pay rent, the termination notice shall be effective no earlier than 30 days after receipt by the tenant. All termination notices in cases of failure to pay rent must include the following:

(i) Instructions on how the tenant can cure the nonpayment of rent violation;

(ii) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(iii) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

* * * * *

PART 884—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

■ 6. The authority citation for part 884 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

■ 7. In § 884.215, add a second sentence to the introductory text to read as follows:

§ 884.215 Lease requirements.

* * * In addition to the provisions specified in paragraph (b), the lease shall also contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

* * * * *

■ 8. In § 884.216, revise paragraph (d) to read as follows:

§ 884.216 Termination of tenancy.

* * * * *

(d) In the case of failure to pay rent, the owner must provide the tenant with a termination notice at least 30 days before the termination notice is effective. All termination notices in cases of failure to pay rent must include the following:

(1) Instructions on how the tenant can cure the nonpayment of rent violation;

(2) Information on how the tenant can recertify their income and apply for a hardship exemption pursuant to 24 CFR 5.630(b); and

(3) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

■ 9. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

■ 10. In § 886.127, add paragraph (c) to read as follows:

§ 886.127 Lease requirements.

* * * * *

(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

■ 11. In § 886.327, add paragraph (c) to read as follows:

§ 886.327 Lease requirements.

* * * * *

(c) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

■ 12. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

■ 13. In § 891.425, add paragraph (d) to read as follows:

§ 891.425 Lease requirements.

* * * * *

(d) *Notification for nonpayment of rent.* The lease must contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

PART 966—PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURE

■ 14. The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

■ 15. In § 966.4, revise paragraphs (l)(3)(i)(A), add a sentence to the end of paragraph (1)(3)(ii), add paragraphs (l)(3)(ii)(A), (B), and (C), and add paragraph (q) to read as follows:

§ 966.4 Lease requirements.

* * * * *

(l) * * *

(3) * * *

(i) * * *

(A) At least 30 days in the case of failure to pay rent;

* * * * *

(ii) * * * All notices of lease termination required by § 966.4(1)(3)(i)(A) due to a tenant's failure to pay rent must also include the following:

(A) Instructions on how the tenant can cure the nonpayment of rent violation;

(B) Information on how the tenant can recertify their income pursuant to 24 CFR 960.257(b), request a hardship exemption pursuant to 24 CFR 5.630(b), or request to switch from flat rent to income-based rent pursuant to 24 CFR 960.253(g); and

(C) In the event of a Presidential declaration of a national emergency, such information as required by the Secretary.

* * * * *

(q) *Notification for nonpayment of rent.* The lease shall contain a provision or addendum that tenants will receive notification at least 30 days prior to termination of the lease for nonpayment of rent.

§ 966.8 [Removed]

■ 16. Remove § 966.8.

Marcia L. Fudge,

Secretary.

[FR Doc. 2023–26348 Filed 11–30–23; 8:45 am]

BILLING CODE 4210–67–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2024–2; Order No. 6816]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Eight). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 18, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On November 21, 2023, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Eight.

II. Proposal Eight

Background. In May 2023, the Postal Service began using a new route evaluation system, the Rural Route Evaluated Compensation System (RRECS), to determine each route's evaluated time, on which basis the compensation for rural carriers is based. Petition, Proposal Eight at 1. The Postal Service states that RRECS replaces the previous route evaluation system and is materially different from the previous system in three important ways. *Id.* at 1–2. First, RRECS presents a more detailed classification of daily carrier activities and can potentially identify new linkages between rural carrier volumes and rural carrier costs. *Id.* at 2. Second, RRECS uses engineering and statistical methods instead of negotiated standards to establish time standards for individual rural carrier activities, which may lead to different volume variable costs. *Id.* Third, RRECS uses current data to determine the various counts that are applied to the time standards to determine evaluated time, unlike the existing methodology that relies on a special study (the Rural Mail Count) last conducted in 2018 to capture those counts. *Id.* The Postal Service concludes that because of these differences, it is likely that the relationship between rural carrier costs and volumes has changed, and changes to the existing methodology are required to accurately measure attributable rural carrier costs. *Id.*

Proposal. Before describing the proposal, the Postal Service notes that a more detailed discussion of the research supporting the proposal is provided in the Bradley Study, and supporting data are provided in Library References USPS–RM2024–2–1 and USPS–RM2024–2–NP1. *Id.* at 3.

The Postal Service states that because RRECS links actual volumes to actual rural carrier compensation, it is appropriate to use RRECS data to measure the variability of rural carrier costs and to distribute attributable costs to products. *Id.* The Postal Service explains that although the existing methodology has a solid casual basis, its implementation is dated. *Id.* at 4. First, it relies on Form 4241 negotiated evaluation factors, which are no longer used and do not reflect the current relationships between volume and rural carrier cost. *Id.* Second, it relies on volumes from the Rural Mail Count conducted in 2018, and there have been material volume shifts since then. *Id.*

The Postal Service states that updating the existing methodology using data from RRECS also provides two advantages for calculating attributable costs. *Id.* First, RRECS captures volume from ongoing operational data systems, and volume counts will be automatically updated each year and will no longer depend on

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), November 21, 2023 (Petition). Proposal Eight is attached to the Petition. The Petition was accompanied by a study supporting its proposal. *See* Michael D. Bradley, *Calculating the Rural Carrier Product Costs Arising Under the New Evaluation System,* November 21, 2023 (Bradley Study). The Postal Service also filed a notice of filing of public and non-public materials relating to Proposal Eight. Notice of Filing of USPS–RM2024–2–1 and USPS–RM2024–2–NP1 and Application for Nonpublic Treatment, November 21, 2023.

a special volume study. *Id.* at 4–5. Second, RRECS provides a more detailed description of rural carrier activities and reflects how rural carrier operations are currently performed. *Id.* at 5.

The Postal Service states that RRECS has three types of variables that are used in calculating volume variable rural carrier costs. *Id.* First, it has time standards, which are the scientifically derived evaluation times specified for each carrier activity. *Id.* Second, it has units, which are a count of the activity that causes the carrier to incur time. *Id.* Third, it has time sequences, which are a measure of time spent in a specific activity. *Id.* The Postal Service states that for nearly all the time sequences, the calculated time is the product of the time standard for the activity and the number of units for the activity. *Id.*[2]

The Postal Service states that updating the existing methodology using RRECS data requires identifying the RRECS sequences that are volume variable. *Id.* at 6. This requires examining the relationship between volume and evaluated time for each of the sequences that make up the carrier's day. *Id.* First, this requires examining, for each sequence, the relationship between the cost driver (measured by the sequence's unit) and the sequence's evaluated time. *Id.* Second, this requires examining the relationship between volume and the sequence's unit. *Id.* The Postal Service concludes that a sequence is volume variable if both the linkage between volume and its unit, and the linkage between its unit and its evaluated time, are in force. *Id.* On the other hand, if a sequence's unit is not volume dependent, then the sequence is not volume variable. *Id.*

The Postal Service states that there are a total of 98 sequences and subsequences that make up the carrier's day. *Id.* Based on its analysis, the Postal Service concludes that among these sequences and subsequences, there are 48 that are entirely volume variable, 16 that are partially volume variable, and 34 that are not volume variable. *Id.* at 6–7.

The Postal Service states that the overall variability for rural carrier labor time is calculated as the ratio of total volume variable evaluated time to total evaluated time. *Id.* at 7. Under the existing methodology, the overall variability for labor time is 39.0 percent. *Id.* Using 2023 data from RRECS, the overall variability is 47.2 percent. *Id.*

The Postal Service explains that the higher overall variability under RRECS is due to three reasons. *Id.* First, box time is volume variable under RRECS but not under the existing methodology. *Id.* The Postal Service states that total box time is a large time sequence and is the largest volume variable sequence under RRECS. *Id.* Second, under RRECS rural carriers get credit for verifying the addresses of mail as it is delivered. *Id.* at 7–8. Because this activity occurs at every box that receives mail, this makes it the second largest volume variable sequence under RRECS, whereas under the existing methodology this time is implicit in the non-volume variable box time. *Id.* at 8. Third, RRECS has a much more detailed examination of rural carriers' activities, leading it to identify higher time standards for handing mail, especially for parcels. *Id.* The Postal Service states that because of the growth in parcel volume, these additional parcel-related activities represent the third through the fifth largest volume variable sequences under RRECS. *Id.*

The Postal Service states that the last step in the calculation of attributable rural carrier costs is the distribution of volume variable costs to the products that cause them. *Id.* This requires aligning RRECS cost pools with the distribution keys in the Rural Carrier Cost System (RCCS). *Id.* The Postal Service states that in some cases, this requires combining RRECS cost pools that share a common RCCS distribution key, and in others it requires subdividing an RRECS cost pool into shapes-specific sub-pools that match RCCS distribution keys. *Id.*

The Postal Service further proposes minor modifications to the RCCS distribution keys in order to realign rural carrier costing with RRECS. *Id.* The Postal Service states that these modifications ''are related to the shape of the mail piece, the presence of delivery barcodes, and the delivery location.'' *Id.* at 13. The Postal Service further states that these modifications ''would result in the addition of new distribution keys, the removals of obsolete distribution keys, and in changes in the assignment of mail pieces to the distribution keys.'' *Id; see generally, id.* at 13–16 (describing the minor modifications in detail).

Impact. The Postal Service presents the impact of using RRECS data on the volume variable costs by product groups and the impact on unit costs by product in two tables.[3] In terms of the impact on volume variable costs, the Postal Service states that the most notable impact is the large increase in volume variable costs for both Package Services and Competitive products. *Id.* at 9. The Postal Services explains that this is due to the higher parcel-shaped volumes recorded in RRECS as compared to the 2018 Rural Mail Count, and the higher carrier time per parcel identified under RRECS as compared to the negotiated time from Form 4241. *Id.*

In terms of the impact on unit costs, the Postal Service states there are relatively small changes in unit costs for First-Class Mail products and Marketing Mail products (except for parcels), Periodicals' unit costs decrease because of the decline in rural route flats volume, Package Services' and Competitive products' unit costs increase because of higher parcel volumes and higher evaluated times per parcel in RRECS, and special services' unit costs decrease because of lower volumes and lower unit times in RRECS. *Id.* at 10–11.

The Postal Service concludes that ''the impact analysis demonstrates that the proposed costing methodology produces volume variable and unit costs consistent with the changes in volume since 2018 and the change in the route evaluation structure brought on by RRECS.'' *Id.* at 11.

III. Notice and Comment

The Commission establishes Docket No. RM2024–2 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Eight no later than January 18, 2024. Pursuant to 39 U.S.C. 505, Nikki Brendemuehl is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2024–2 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Eight), filed November 21, 2023.

[2] The Postal Service notes that there are three activities that are sufficiently heterogenous across routes that effective time standards could not be established. *Id.,* n.1. These activities are loading the vehicle, deviations for Priority Mail Express deliveries, and end of shift activities. *Id.* For these three activities, the actual time the carrier spends is recorded on the carrier's Mobile Delivery Device. *Id.*

[3] *See id.* at 10, Table 1, Assessing the Impact of RRECS on FY 2022 Volume Variable Costs by Product Groups (Thousands of Dollars); *see also id.* at 12, Table 2, Changes in Unit Costs Due to Switch to RRECS.

2. Comments by interested persons in this proceeding are due no later than January 18, 2024.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Nikki Brendemuehl to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for the publication of this Order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2023–26393 Filed 11–30–23; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–OAR–2023–0406; FRL–10652–01–OAR]

RIN 2060–AV97

Removal of Affirmative Defense Provisions From the National Emission Standards for Hazardous Air Pollutants for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing amendments to the National Emission Standards for Hazardous Air Pollutants for the oil and gas industry issued under the Clean Air Act. Specifically, the EPA is proposing to remove the affirmative defense provisions of the National Emission Standards for Hazardous Air Pollutants for both the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category.

DATES:

Comments. Comments must be received on or before January 16, 2024.

Public hearing: If anyone contacts us requesting a public hearing on or before December 6, 2023, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2023–0406, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2023–0406 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2023–0406.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2023–0406, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact U.S. EPA, Attn. Matthew Witosky, Mail Drop: E143–05, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number: (919) 541–2865; and email address: *witosky.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the hearing will be held via virtual platform on December 18, 2023. The hearing will convene at 11 a.m. Eastern Time (ET) and will conclude at 3 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural#neshap.*

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural#neshap* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be December 13, 2023. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers at: *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural#neshap.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *witosky.matthew@epa.gov.* The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/actions-and-notices-about-oil-and-natural#regactions.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by December 8, 2023. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2023–0406. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov*.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2023–0406. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov/* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2023–0406. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Categories and entities potentially regulated by this action are shown in table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NAICS	NAICS code [1]
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION—Continued

Source category	NAICS	NAICS code [1]
Federal Government		Not affected.
State/Local/Tribal Government		Not affected.

[1] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in the regulations. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Proposed Rule Summary and Rationale

In 1998 the EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Oil and Natural Gas Production Facility and Natural Gas Transmission and Storage Facility Source Categories, 40 CFR part 63, subparts HH and HHH. 64 FR 32610 (June 17, 1999) (''Oil and Gas NESHAP''). In 2012, the EPA amended the Oil and Gas NESHAP. 77 FR 49490 (August 16, 2012). The 2012 amendments included provisions allowing owners and operators to assert an affirmative defense to civil penalties for violations caused by malfunctions. See 40 CFR 63.762 and 63.1672. Malfunctions are a sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. See 40 CFR 63.2. As defined in 40 CFR part 63, subparts HH and HHH, ''affirmative defense'' means, ''in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding.'' See 40 CFR 63.761 and 63.1271. The EPA established an affirmative defense in 40 CFR part 63, subparts HH and HHH in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulations, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source (77 FR 49508).

Although the EPA recognized at the time that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. *Id.* at 49508–9. See also, *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed.

In 2014, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated the affirmative defense in one of the EPA's CAA section 112 regulations. Natural Resource Defense Council (*NRDC)* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in CAA section 112 rule establishing emission standards for Portland cement kilns) (*NRDC*). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' *Id.* at 1063 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[1]

In light of the *NRDC* decision mentioned above, the EPA is proposing to remove the affirmative defense provisions from the Oil and Gas NESHAP. These provisions imply legal authority that the D.C. Circuit Court has stated that the EPA does not have.[2] As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the D.C. Circuit recognized, in a citizen enforcement action brought under CAA section 304(a), the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* 749 F.3d at 1064 (arguments that violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

III. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Sources subject to subparts HH and HHH under 40 CFR part 63 of the CAA as amended in 1990, section 112.

B. What are the air quality impacts?

There are no air quality impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards.

[1] The court's reasoning in *NRDC* focuses on civil judicial actions. The court noted that ''EPA's ability to determine whether penalties should be assessed for CAA violations extends only to administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[2] The EPA notes that in 2012, concurrent with the review of 40 CFR part 63, subparts HH and HHH, the EPA promulgated New Source Performance Standards for Crude Oil and Natural Gas Facilities, 40 CFR part 60, subpart OOOO (''NSPS OOOO''), which also included an affirmative defense. See 77 FR 49557. In a subsequent rulemaking following the *NRDC* decision, the EPA removed the affirmative defense provision from NSPS OOOO. 79 FR 79018 (Dec. 31, 2014).

[3] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that are available in administrative enforcement actions, we are not including such an affirmative defense in the proposed rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *Cf.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

C. What are the cost impacts?

There are no cost impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that result in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

D. What are the economic impacts?

There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards. The EPA estimated a small administrative burden to report deviations from standards as a result of malfunctions that included the option for an owner or operator to offer an affirmative defense. The removal of the affirmative defense provisions does not affect that burden because sources will still be required to report malfunctions that could have resulted in a failure to meet the standards. Since the option to invoke an affirmative defense was voluntary, there may be a negligible cost savings for reporting malfunctions by removing these provisions.

E. What are the benefits?

There are no environmental benefits associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for review under Executive Order 12866.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0417. The removal of provisions for affirmative defense does not change any mandatory recordkeeping, reporting, or other activity previously established under prior final rules.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. There are no economic impacts associated with this action. The affirmative defense provisions did not affect the stringency of the standards in 40 CFR part 63, subparts HH or HHH. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing our Nation's Commitment to Environmental Justice for All

The EPA believes that this action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of Federal or State agencies to enforce standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) proposes to amend title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart HH—National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities

■ 2. Section 63.760 is amended by adding paragraph (i) to read as follows:

§ 63.760 Applicability and designation of affected source.

* * * * *

(i) Emissions standards in this subpart apply at all times.

§ 63.761 [Amended]

■ 3. Section 63.761 is amended by removing the definition ''Affirmative defense''.

§ 63.762 [Removed and Reserved]

■ 4. Section 63.762 is removed and reserved.

Subpart HHH—National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities

■ 5. Section 63.1270 is amended by adding paragraph (g) to read as follows:

§ 63.1270 Applicability and designation of affected source.

* * * * *

(g) Emissions standards in this subpart apply at all times.

§ 63.1271 [Amended]

■ 6. Section 63.1271 is amended by removing the definition ''Affirmative defense''.

§ 63.1272 [Removed and Reserved]

■ 7. Section 63.1272 is removed and reserved.

[FR Doc. 2023–26119 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[231121–0275; RTID 0648–XD495]

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; 2024–2027 Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications; request for comments.

SUMMARY: We are proposing specifications for the 2024 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings limit, and projecting quotas for the 2025–2027 Atlantic deep-sea red crab fishery. The proposed action is intended to establish the allowable 2024 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan. This action is necessary to establish allowable red crab harvest levels that will prevent overfishing.

DATES: Comments must be received on or before January 2, 2024.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0140, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *https://www.regulations.gov,* and enter ''NOAA–NMFS–2023–0140'' in the Search box;

2. Click the ''Comment'' icon, complete the required fields; and

3. Enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous).

Copies of the specifications document, including the Regulatory Flexibility Act Analysis, and other supporting documents for the specifications, are available from Dr. Catherine O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950 or at *https://www.nefmc.org/management-plans/red-crab.* The specifications document is also accessible via the internet at:*https://www.greateratlantic.fisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281–9122.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council (Council). The Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) includes a specification process that requires the Council to recommend an acceptable biological catch (ABC), an annual catch limit (ACL), and total allowable landings (TAL) every four years. The Council's Scientific and Statistical Committee (SSC) provides a recommendation to the Council for the ABC. The Council makes a recommendation to NMFS that cannot exceed the ABC recommendation made by the SSC.

The FMP was implemented in 2002 and was originally managed under a target total allowable catch (TAC) and days-at-sea (DAS) system that allocated DAS equally across the small fleet of limited access permitted vessels. Amendment 3 to the FMP removed a trip limit restriction, and replaced the target TAC and DAS allocation with a catch-limit structure consistent with the ACL and accountability measure requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Under Amendment 3 (76 FR 60379; September 29, 2011), the 2011–2013 red crab specifications were set with an ABC equal to the long-term average landings of the directed red crab fishery (3.91 million pounds or 1,775 metric tons (mt)). These specifications were continued for fishing years 2014–2016 (79 FR 24356; April 30, 2014) and 2017–2019 (82 FR 11322, February 22, 2017; 83 FR 4849, February 2, 2018; 83 FR 66161, December 26, 2018). Specifications were increased to 2,000 mt for fishing years 2020 through 2023 (85 FR 20615, April 14, 2020; 86 FR 16077, March 26, 2021; 87 FR 3697, January 25, 2022; 88 FR 788, January 5, 2023).

Proposed Specifications

The biological and management reference points currently in the FMP are used to determine whether overfishing is occurring or if the stock is overfished. There is insufficient information on the species to establish the maximum sustainable yield, optimum yield, or overfishing limit (OFL). The ABC is defined in terms of landings instead of total catch because there is insufficient information to estimate dead discards of red crab.

The Council's recommendation for the 2024–2027 red crab specifications is based on the results of the 2023 management track assessment update for the red crab fishery and the recommendations of the Council's SSC. The recommended specifications maintain status quo specifications of 4.409 million lb (2,000 mt) from fishing years 2020 through 2023. While an OFL has not been determined for the stock, the Council and its SSC assert that the increased catch limit will not result in overfishing and adequately accounts for scientific uncertainty due to past performance of not exceeding past specifications.

Recent landings, landings per unit of effort, port samples, discard information, and economic data suggest there has been no change in the size of the red crab stock since Amendment 3 was implemented in 2011. On August 10, 2023, the SSC recommended a 2,000-mt ABC for fishing years 2024–2027 for the directed fishery. The Council approved the 2,000-mt ABC, ACL, and TAL on September 26, 2023. We are proposing the Council-recommended specifications for fishing year 2024. By providing projected quotas for 2025–2027, we hope to assist fishery participants in planning ahead.

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 648.262(b) require a pound-for-pound reduction in a subsequent fishing year, through notification consistent with the Administrative Procedure Act. We would publish a notice in the **Federal Register** of any revisions to the projected specifications if an overage occurs. We expect, based on the performance of the red crab fishery over time, that such adjustments would be unlikely. Current fishery projections indicate that no adjustment would be necessary for fishing year 2024. We will provide notice of the final 2025–2027 quotas prior to the start of each respective fishing year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Deep-Sea Red Crab FMP, other provisions of the Act, and other applicable law, subject to further consideration after public comment.

This action is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council prepared an analysis of the potential economic impacts of this action, which is included in the Council's document for this action (see **ADDRESSES** to obtain a copy of the supplemental information report) and supplemented by information contained in the preamble of this proposed rule. For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR part 200). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2020 through 2022.

Due to the small size of the limited access red crab fleet (five permits, four active vessels) and its ownership, data regarding this fleet are considered confidential. However, when combined with all active red crab permits (limited access and open access), data are public and can be presented. This likely provides an overestimate on the scale and participation in the red crab fishery, given that the limited access permits comprise the vast majority of landings and, therefore, revenue. Under this rule and with these caveats, there are between 6 and 7 business entities and anywhere from 20 to 26 vessels to which the rule applies. Table 1 summarizes the number of affiliate groups, number of permits, business size, average affiliate revenue, and aggregated affiliate revenue for the business entities described above. All entities have been determined to be small entities.

TABLE 1—REGULATORY FLEXIBILITY ACT AFFILIATE GROUPS OF ACTIVE * RED CRAB PERMITS FROM CALENDAR YEAR 2020–2022

Year	Number of affiliate groups	Number of permits across all affiliate groups	Small business in previous year (all affiliate groups)? *	Average affiliate group revenue (nominal dollars)	Aggregated affiliate group revenues (nominal dollars)
2020	7	26	Yes	1,939,248	13,574,737
2021	6	20	Yes	1,857,039	11,142,231
2022	7	21	Yes	2,582,741	18,079,184

* Active permits include any vessel with a Federal red crab permit (PLAN RCB, CAT A, B or C) which reported landings of red crab in the Federal dealer database. All permits were included in this analysis to protect data confidentiality.

Data sources: PERMIT, CAMS LAND and SSB's RFA dataset, accessed Oct 2023.

There is no reason to expect that small entities will be adversely affected by the proposed action. The proposed action will affect these business entities and vessels in the red crab fishery, but it is not expected to have any impact on the gross or average revenues for the fishery because it does not change the total allowable landings, which is 4.409 million lb (2,000 mt). The proposed action is not expected to constrain landings markets for red crab substantially. Although total landings have increased recently, they remain at or below the total allowable landings limit, with market conditions driving landings more than this limit. Therefore, the proposed action is not expected to

constrain landings or markets for red crab and is not expected to have a significant economic impact on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–26482 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 88, No. 230
Friday, December 1, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0098]

Pioneer Hi-Bred International, Inc.; Determination of Nonregulated Status for Insect Resistant and Herbicide-Tolerant Maize

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that DP23211 maize (corn), which has been developed using genetic engineering for insect resistance to western corn rootworm and contains the gene that codes for the phosphinothricin acetyltransferase protein responsible for tolerance to glufosinate-ammonium herbicides, and also the gene that encodes for the phosphomannose isomerase protein as a selectable marker, is no longer considered regulated. Our determination is based on our evaluation of information Pioneer Hi-Bred International, Inc. submitted in its petition for a determination of nonregulated status, our analyses, and public comments received in response to previous notices announcing the availability of the petition for nonregulated status and our associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

DATES: This change in regulatory status will be recognized on December 1, 2023.

ADDRESSES: You may read the documents referenced in this notice and the comments we received at *regulations.gov*, or in our reading room which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

Supporting documents are also available on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/regulatory-processes/petitions/petition-status/petitions-table.*

FOR FURTHER INFORMATION CONTACT: Dr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3944; email: *alan.pearson@usda.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Movement of Organisms Modified or Produced Through Genetic Engineering,'' regulate, among other things, the importation, interstate movement, or release into the environment of organisms modified or produced through genetic engineering that are plant pests or pose a plausible plant pest risk.

The petition for nonregulated status described in this notice was evaluated under the version of the regulations effective at the time that it was received. The Animal and Plant Health Inspection Service (APHIS) issued a final rule, published in the **Federal Register** on May 18, 2020 (85 FR 29790–29838, Docket No. APHIS–2018–0034),[1] revising 7 CFR part 340; however, the final rule was implemented in phases. The new Regulatory Status Review (RSR) process, which replaces the petition for determination of nonregulated status process, became effective on April 5, 2021, for corn, soybean, cotton, potato, tomato, and alfalfa. The RSR process became effective for all crops as of October 1, 2021. However, ''[u]ntil RSR is available for a particular crop . . . APHIS will continue to receive petitions for determination of nonregulated status for the crop in accordance with the [legacy] regulations at 7 CFR 340.6.'' (85 FR 29815). This petition for a determination of nonregulated status was evaluated in accordance with the regulations at 7 CFR 340.6 (2020) as it was received by APHIS on July 21, 2020.

Pioneer Hi-Bred International (Pioneer) submitted a petition (APHIS Petition Number 20–203–01p) to APHIS, seeking a determination of nonregulated status for DP23211 maize (corn), which was developed using genetic engineering for insect resistance to western corn rootworm and contains the gene that codes for the phosphinothricin acetyltransferase protein responsible for tolerance to glufosinate-ammonium herbicides. DP23211 corn also contains the gene that encodes for the phosphomannose isomerase protein, which is used as a selectable marker. The petition stated that DP23211 corn is unlikely to pose a plant pest risk and, therefore, should not be regulated under APHIS' regulations in 7 CFR part 340.

According to our process [2] for soliciting public comment when considering petitions for determination of nonregulated status for organisms developed using genetic engineering, APHIS accepts written comments regarding a petition once APHIS deems it complete. On November 3, 2020, APHIS published a notice in the **Federal Register** (85 FR 69564–69566, Docket No. APHIS–2020–0098) announcing the availability of the Pioneer petition for public comment. Four comments were received. One comment was from an individual, which stated opposition to biotechnology-derived crops in general. Three comments were received from industry organizations, which generally supported approval of the petition. APHIS evaluated the issues raised during the initial comment period and, where appropriate, incorporated a discussion of them within a draft environmental assessment (EA).

A second opportunity for public involvement was provided on April 11, 2023, with a notice published in the **Federal Register** (88 FR 21602–21603, Docket No. APHIS–2020–0098) announcing the availability of the draft EA and draft plant pest risk assessment (PPRA) for public review and comment. That comment period closed on May 11,

[1] To view the final rule, go to *www.regulations.gov* and enter APHIS–2018–0034 in the Search field.

[2] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for organisms developed using genetic engineering. To view the notice, go to *www.regulations.gov* and enter APHIS–2011–0129 in the Search field.

2023. APHIS received three comments. One commenter expressed concern that the DvSSJ1 dsRNA insect resistant trait in DP23211 corn is associated with an animal and thus presents cultural/dietary concerns for plant-based diet adherents who may inadvertently consume DP23211 corn, and thereby DvSSJ1 dsRNA. We responded that the potential risk of exposure to insect DNA/RNA via inadvertent consumption of DP23211 corn products is not expected to appreciably increase in the event of deregulation and subsequent production of DP23211 corn, and that DvSSJ1 dsRNA poses no health risk to humans. Another commenter expressed opposition to biotechnology-derived crops, in general. A comment from a State organization representing farmers expressed support for the deregulation of DP23211 corn. APHIS provided a response to the comments in Appendix 2 of our final EA. None of the comments identified new information or data regarding the draft EA or draft PPRA.

National Environmental Policy Act

After reviewing and evaluating the comments received during the comment period on the draft EA, draft PPRA, and other information, APHIS has prepared a final EA, which provides the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status of DP23211 corn. The EA was prepared in accordance with: (1) the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA, public comments, and other pertinent scientific data, APHIS has reached a finding of no significant impact (FONSI) with regard to the preferred alternative identified in the EA (to make a determination of nonregulated status for DP23211 corn).

Determination

Based on APHIS' analysis of field and laboratory data submitted by Pioneer, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, the public comments, and information provided in APHIS' response to those public comments, APHIS has determined that DP23211 corn is unlikely to pose a plant pest risk and therefore is no longer subject to our regulations governing the movement of organisms developed using genetic engineering.

Copies of the signed determination document, PPRA, final EA, and FONSI, as well as the previously published petition and supporting documents, are available as indicated under **ADDRESSES** and from the person listed under the **FOR FURTHER INFORMATION CONTACT** section in this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 27th day of November 2023.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–26458 Filed 11–30–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed New Recreation Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Lassen National Forest is proposing to establish several new recreation fee sites. Recreation fee revenues collected at the new recreation fee sites would be used for operation, maintenance, and improvement of the sites. An analysis of nearby recreation fee sites with similar amenities shows the recreation fees that would be charged at the new recreation fee sites are reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the new recreation fees would be implemented no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130.

FOR FURTHER INFORMATION CONTACT: Janie Ackley, Recreation Fee Coordinator, 530–258–5165 or *mary.ackley@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish a six-month advance notice in the **Federal Register** of establishment of new recreation fee sites. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed new recreation fee sites in local newspapers and other local publications for public comment. Most of the new recreation fee revenues would be spent where they are collected to enhance the visitor experience at the new recreation fee sites.

An expanded amenity recreation fee of $12 per night would be charged for the Black Rock, Butte, Echo Lake, Goumaz, and Roxie Peconom Campgrounds. An expanded amenity recreation fee of $18 per night would be charged for the Bogard Campground.

Expenditures from recreation fee revenues collected at the new recreation fee sites would enhance recreation opportunities, improve customer service, and address maintenance needs. Once public involvement is complete, the new recreation fees will be reviewed by a Resource Advisory Committee prior to a final decision and implementation. Reservations for Black Rock, Butte, Echo Lake, Goumaz, and Roxie Peconom, and Bogard Campgrounds could be made online at *www.recreation.gov* or by calling 877–444–6777. Reservations would cost $8.00 per reservation.

Dated: November 28, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–26442 Filed 11–30–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Manual 2000 National Forest Resource Management; Chapter 2040 National Forest System Monitoring

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of availability for public comment; extension of comment period.

SUMMARY: The Forest Service (Forest Service or Agency) published a notice in the **Federal Register** on November 28, 2023, initiating a 30-day comment period on the proposed directive contained in Forest Service manual 2000, National Forest Resource Management, chapter 2040, National Forest System Monitoring. The closing date of the original notice is scheduled for December 27, 2023. The Forest Service is extending the comment period for an additional 15 days from the previous closing date.

DATES: Comments must be received in writing by January 11, 2024.

ADDRESSES: Comments may be submitted electronically to *https://cara.fs2c.usda.gov/Public/CommentInput?project=ORMS-3585.* Written comments may be mailed to Mara

Alexander, National Adaptive Management Program Lead, Ecosystem Management Coordination, 201 14th Street SW, Washington, DC 20024. All timely received comments, including names and addresses, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received at *https://cara.fs2c.usda.gov/Public/ReadingRoom?project=ORMS-3585.*

FOR FURTHER INFORMATION CONTACT: Mara Alexander, National Adaptive Management Program Lead, Ecosystem Management Coordination, at 202–597–1245 or by electronic mail to *mara.alexander@usda.gov.* Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service at 800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The proposed new Forest Service Manual chapter 2040 on National Forest System Monitoring will improve the Agency's ability to make evidence-based decisions as required by the 2012 Planning Rule and the Foundations for Evidence-Based Policymaking Act of 2018. The proposed directive creates a framework that clearly defines the Agency's monitoring principles, what those principles are intended to accomplish, and the roles and responsibilities for leaders at all levels to implement the policy. An analysis of existing agency policy in Forest Service Handbooks and Manuals was conducted to evaluate monitoring requirements to inform the development of a National Forest System (NFS) monitoring policy. To ensure that all members of the public who have an interest in NFS monitoring have the opportunity to provide comment, we are extending the comment period on the proposed directive to January 11, 2024.

The Forest Service has determined that the proposed new directive sets forth policy and responsibilities, with the goal of providing current direction applicable to the Forest Service monitoring program. The Forest Service is seeking public comment on the proposed directive, including the sufficiency of the proposed directive in meeting its stated objectives, ways to enhance the utility and clarity of information within the direction, or ways to streamline processes outlined. The proposed directive location of this new chapter has the potential to change. It is expected that chapter 2040 will replace chapter 1940—Inventory, Monitoring, and Assessment Activities which established direction associated solely for land management planning.

After the public comment period closes, the Forest Service will consider timely comments that are within the scope of the proposed directive in the development of the final directive. A notice of the final directive, including a response to timely comments, will be posted on the Forest Service's web page at *https://www.fs.usda.gov/about-agency/regulations-policies/comment-on-directives.*

Dated: November 28, 2023.

Jacqueline Emanuel,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–26481 Filed 11–30–23; 8:45 am]

BILLING CODE 3411–15–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION REVIEW BOARD

Senior Executive Service Performance Review Board

AGENCY: Chemical Safety and Hazard Investigation Board (CSB).

ACTION: Notice of appointment of members to the senior executive service performance review board.

SUMMARY: This notice announces the membership of the Chemical Safety and Hazard Investigation Review Board (CSB) Senior Executive Service (SES) Performance Review Board (PRB).

DATES: These appointments are effective on the date of publication of this notice to March 2024.

FOR FURTHER INFORMATION CONTACT: Selena Simmons-Ferguson, HR Director, CSB, 1750 Pennsylvania Ave. NW, Suite 910, (202) 510–3054.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c)(1) requires each agency to establish, in accordance with regulations with regulations prescribed by the Office of Personnel Management, a performance review board (PRB). The PRB reviews the initial performance ratings of members of the Senior Executive Service (SES) and makes recommendations for final annual performance ratings for senior executives. In addition, the PRB will review and recommend executive performance bonuses and pay increases.

Publication of the PRB membership is required by 5 U.S.C. 4314(c)(4). Because the CSB is a small independent Federal agency, in addition to a member from the CSB, the agency is drawing additional career appointed SES members for its PRB from other Federal agencies. One member of the previously announced PRB is no longer able to serve. Jerold Gidner will be stepping down and Jason Bruno will take his place.

The PRB shall consist of at least three members, and more than half of the members shall consist of career appointees when reviewing the performance of a career appointed SES. The following persons comprise the CSB Senior Executive Service PRB:

Dr. Sylvia Johnson, Board Member, U.S. Chemical Safety and Hazard Investigation Board;

Rachel A. Wallace, Deputy General Counsel and Chief Operating Officer, Office of Science and Technology Policy, Executive Office of the President; and

Jason Bruno, Director of the Office of Strategic Oversight and Planning, Bureau of Trust Funds Administration, U.S. Department of Interior.

Dated: November 28, 2023.

Tamara Qureshi,

Assistant General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2023–26475 Filed 11–30–23; 8:45 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Building Permits Survey Program

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed revision of the current Office of Management and Budget clearance for the surveys known as the Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units (C–404) and the Survey of Residential Building or Zoning Permit Systems (C–411).

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before January 30, 2024.

ADDRESSES: Interested persons are invited to submit written comments by

email to *Thomas.J.Smith@census.gov.* Please reference the Building Permits Survey Program in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2023–0013, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Aidan Smith, Construction Indicator Programs, Economic Indicators Division, U.S. Census Bureau, 301–763–2972, *aidan.d.smith@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a revision of the current Office of Management and Budget clearance for the surveys known as the Survey of Residential Building or Zoning Permit Systems (C–411) and the Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units (C–404). The C–411 and the C–404 are related collections sharing the same universe called the Active Governments File (AGF) universe. The C–411 is utilized to update the permit issuing status of all jurisdictions in the AGF. The C–404 is utilized to collect both monthly and annual data on the totals of new housing unit permits issued. These two surveys, currently cleared separately under control numbers 0607–0350 and 0607–0094, respectively, will therefore be combined under one control number and will be collectively called the Building Permits Survey Program.

The Census Bureau uses these surveys to produce statistics to monitor activity in the large and dynamic construction industry. These statistics help state and local governments and the Federal government, as well as private industry, to analyze this important sector of the economy. Building permits for new private housing units also are a component of The Conference Board's Leading Economic Index.

The Census Bureau uses the Form C–411 or individual questions from the form, as needed, to obtain information needed to update the universe of permit-issuing places from state and local building permit and zoning officials. Questions on the form pertain to the legal requirements for issuing building or zoning permits in the local jurisdictions. Information is obtained on such items as geographic coverage and types of construction for which permits are issued.

The universe of permit-issuing places is the sampling frame for the Building Permits Survey (BPS) and the Survey of Construction (SOC). These two sample surveys provide widely used measures of construction activity, including the monthly Principal Federal Economic Indicators Housing Units Authorized by Building Permits and Housing Starts.

For New Residential Construction (which includes Housing Units Authorized by Building Permits, Housing Starts, and Housing Completions), Form C–404 is used to collect the estimate for Housing Units Authorized by Building Permits. For New Residential Construction and Sales, the number of housing units authorized by building permits is a key component utilized in the estimation of housing units started, completed, and sold.

The Census Bureau uses Form C–404 to collect information on changes to the geographic coverage of permit-issuing places, the number and valuation of new residential housing units authorized by building permits, and additional information on residential permits valued at $2 million or more, including, but not limited to, site address and type of building. The Building Permits Survey is the only source of statistics on residential construction for states and smaller geographic areas. The Census Bureau uses the detailed geographic data collected from state and local officials on new residential construction authorized by building permits in the development of annual population estimates that are used by government agencies to allocate funding and other resources to local areas. Policymakers, planners, businesses, and others also use the detailed geographic data to monitor growth, plan for local services, and to develop production and marketing plans.

II. Method of Collection

Survey of Residential Building or Zoning Permit Systems (C–411):

One of three variants of the Form C–411 is sent to a jurisdiction when the Census Bureau needs to verify whether a new permit system has been established or an existing one has changed. This is based on the length of time since the jurisdiction last verified their permit issuing status, or on information the Census Bureau obtains from a variety of sources including survey respondents, regional planning councils, and data from the Census Bureau's Geography Division on newly incorporated jurisdictions. While the C–411 was previously a mailed paper form, the Census Bureau plans to add this collection to the standard online collection instrument (Centurion) in 2024.

There are three versions of the form:

- C–411(V) for verification of coverage for jurisdictions with existing permit systems,
- C–411(M) for municipalities where a new permit system may have been established,
- C–411(C) for counties where new permit systems may have been established.

Prior to 2022, the universe of permit issuing places was updated every 10 years. In 2012 and every ten years prior, we mailed the survey to approximately 20,000 jurisdictions that were designated in our records as non-permit issuing jurisdictions, or permit issuing jurisdictions that needed verification of coverage. In processing the 2012 survey, it was determined that it was too burdensome to the Census Bureau's staff to process all 20,000 jurisdictions in the same year. As a result, the process was spread out into 5-year intervals, starting with the mailing in 2017. In 2017, we mailed 3,500 priority jurisdictions of the potential 20,000, with the intent of mailing another priority group in 2022 to complete the 10-year collection cycle. The planned 2022 mailing was deferred. Beginning January 2023, we began updating the universe annually and as a result, we can now incorporate more frequent updates to non-permit issuing jurisdictions. Beginning in 2024 we expect to attempt to collect information from 3,150 jurisdictions annually using either the C–411(C) or C–411(M) regarding the existence of new permit-issuing systems, or to resolve coverage questions or issues concerning existing permit-issuing systems using the C–411(V). This will allow us to attempt collection on all 20,000 jurisdictions approximately every seven years, on a rotating basis.

Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units (C–404):

Respondents may submit their data via internet or a mailed or faxed form. Some respondents choose to report over the phone or to send proprietary files containing permit information in lieu of returning the form.

The survey universe is comprised of approximately 20,000 local governments that issue building permits. Due to resource availability and the time required to complete the data review and analysis, the Census Bureau collects data from a selection of permit-issuing jurisdictions monthly, and the remainder of the jurisdictions annually. We collect this information monthly for about approximately 8,600 permit-issuing jurisdictions. We also collect this information annually for about 11,400 permit-issuing jurisdictions.

III. Data

OMB Control Numbers: 0607–0094, 0607–0350.

Form Numbers: C–404, C–411.

Type of Review: Regular submission, request for a revision of a currently approved collection.

Affected Public: State and local governments.

Estimated Number of Respondents: C–404—20,000; C–411—3,150.

Estimated Time Per Response: C–404—8 minutes for monthly respondents who report via internet, mail, or faxing the form, 23 minutes for annual respondents who report via internet, mail or faxing the form, and 3 minutes for monthly and annual respondents who report by telephone or send electronic files or printouts. C–411—15 minutes.

Estimated Total Annual Burden Hours: C–404—17,229 hours; C–411—788 hours.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–26473 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–915]

Brass Rod From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that brass rod from India is being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Christopher Williams or Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5166 or (202) 482–2805, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this LTFV investigation on May 24, 2023.[1] On September 8, 2023, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary

[1] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 33575 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 62054 (September 8, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Brass Rod from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33576.

Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified, in one respect, the scope language that appeared in the *Initiation Notice.* The scope in Appendix I reflects the modification.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.[7] Commerce intends to issue a final scope decision with the final determination in the concurrent countervailing duty investigation of brass rod from India, currently due on December 11, 2023.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated individual estimated weighted-average dumping margins for Rajhans Metals Pvt Ltd (Rajhans) and Shree Extrusions Limited (Shree), the two mandatory respondents, that are not zero, *de minimis,* or based entirely on facts otherwise available. Because the individually calculated dumping margins are not zero, *de minimis,* or based entirely on facts otherwise available, Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration, pursuant to 735(c)(5)(A) of the Act.[8]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Adjusted cash deposit rate (percent)
Rajhans Metals Pvt Ltd	9.41	6.42
Shree Extrusions Limited	10.95	7.96
All Others	9.52	6.53

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rates for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins calculated in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion CVD investigation, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate export subsidy rate. Any such adjusted cash deposit rate may be found in the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[10] As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated September 25, 2023 (Preliminary Scope Decision Memorandum).

[7] Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum, and ''Public Comment'' section of this notice.

[8] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1; *see also* Memorandum, ''All Others Rate,'' dated concurrently with this notice.

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[10] *See* 19 351.309(c)(2) and (d)(2).

interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by an exporter for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[13]

On October 31, 2023, pursuant to 19 CFR 351.210(e), Rajhans requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[14]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**, pursuant to section 735(a)(2) of the Act.[15]

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of brass rod from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Sections in the Preliminary Decision Memorandum

[FR Doc. 2023–26414 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[13] *See* 19 CFR 351.210(e)(2).

[14] *See* Rajhans' Letter, ''Request to Postpone the Final Determination,'' dated October 31, 2023.

[15] *See* 19 CFR 351.210(b)(2)(ii).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–068]

Forged Steel Fittings From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on forged steel fittings from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4868.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2018, Commerce published in the **Federal Register** the CVD order on forged steel fittings from China.[1] On August 1, 2023, Commerce published the notice of initiation of the first sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

On August 16, 2023, Commerce received notices of intent to participate in this review from Bonney Forge Corporation (Bonney Forge), Phoenix Forge Group d/b/a Capitol Manufacturing Company, LLC (Capitol Manufacturing Company), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Bonney Forge and Capitol Manufacturing Company claimed interested party status under section 771(9)(C) of the Act as producers of the domestic like product in the United States. The USW is a certified labor union whose members include workers at the facilities in which the domestic like product is produced and is, therefore, an interested party within the meaning of section 771(9)(D) of the Act and 19 CFR 351.102(b)(17). On August 31, 2023, Commerce received an adequate substantive response to the notice of initiation from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We received no substantive responses from any respondent interested parties, including the Government of China, nor was a hearing requested.

On September 20, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The products covered by the *Order* are forged steel fittings. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review are addressed in the Issues and Decision Memorandum.[7] A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies at the rates below:

Producers/exporters	Subsidy rate (percent)
Both-Well (Taizhou) Steel Fittings, Co., Ltd	13.88
All Others	13.88

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: November 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26467 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Forged Steel Fittings from the People's Republic of China: Countervailing Duty Order,* 83 FR 60396 (November 26, 2018) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 88 FR 50110 (August 1, 2023).

[3] *See* Domestic Interested Parties' Letter ''Notice of Intent to Participate in the Five-Year Review of the Countervailing Duty Order on Forged Steel Fittings from China,'' dated August 16, 2023.

[4] *See* Domestic Interest Parties' Letter, ''Substantive Response,'' dated August 31, 2023.

[5] *See* Commerce's Letter, ''Sunset Reviews for August 2023,'' dated September 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Forged Steel Fittings from China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–828]

Brass Rod From South Africa: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that brass rod from South Africa is being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this LTFV investigation on May 24, 2023.[1] On September 8, 2023, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from South Africa. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified, in one respect, the scope language that appeared in the *Initiation Notice.* The scope in Appendix I reflects the modification.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.[7] Commerce intends to issue a final scope decision with the final determination in the concurrent countervailing duty investigation of brass rod from India, currently due on December 11, 2023.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated constructed export prices in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Non-Ferrous Metal Works (SA) (PTY) Ltd. (NFMW), the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for NFMW is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Non-Ferrous Metal Works (SA) (PTY) Ltd	11.31
All Others	11.31

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for

[1] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 33575 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 62054 (September 8, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Brass Rod from South Africa,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33576.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated September 25, 2023 (Preliminary Scope Decision Memorandum).

[7] Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum, and ''Public Comment'' section of this notice.

the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin calculated in this preliminary determination; (2) if the exporter is not the respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9] As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by an exporter for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[12]

On November 7, 2023, pursuant to 19 CFR 351.210(e), NFMW requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**, pursuant to section 735(a)(2) of the Act.[14]

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of brass rod from South Africa are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[9] *See* 19 351.309(c)(2) and (d)(2)

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[12] *See* 19 CFR 351.210(e)(2).

[13] *See* NFMW's Letter, ''Request to Postpone the Final Determination,'' dated November 7, 2023.

[14] *See* 19 CFR 351.210(b)(2)(ii).

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigations is dispositive.

Appendix II

List of Sections in the Preliminary Decision Memorandum

[FR Doc. 2023–26417 Filed 11–30–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–912]

Certain Non-Refillable Steel Cylinders From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain non-refillable steel cylinders (cylinders) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 24, 2023.[1] On September 13, 2023, Commerce postponed the preliminary determination of this investigation until November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The products covered by this investigation are cylinders from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.* Therefore, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has relied on facts available with an adverse inference in determining a weighted-average dumping margin for Bhiwadi Cylinders Private Limited/Sapphire (India) Private Limited (collectively, Bhiwadi/Sapphire) under sections 776(a) and (b) of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis,* or determined based entirely on facts otherwise available, Commerce may use ''any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.'' Commerce has preliminarily determined the estimated

[1] *See Certain Non-Refillable Steel Cylinders from India: Initiation of Less-Than-Fair-Value Investigation,* 88 FR 33571 (May 24, 2023) (*Initiation Notice*).

[2] *See Certain Non-Refillable Steel Cylinders from India: Postponement of in the Less-Than-Fair-Value Investigation,* 88 FR 62771 (September 13, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Non-Refillable Steel Cylinders from India'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33571.

weighted-average dumping margin for Bhiwadi/Sapphire under section 776 of the Act and has preliminarily determined that the estimated weighted-average dumping margin for Inox India Limited (Inox) is zero percent.

Consequently, pursuant to section 735(c)(5)(B) of the Act, we calculated the all-others rate as a simple average of the alleged dumping margin(s) from the Petition.[6]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period, April 1, 2022, through March 31, 2023:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Bhiwadi Cylinders Private Limited; Sapphire (India) Private Limited[7]	61.00	59.36
Inox India Limited	0.00	0.00
All Others	[8] 33.62	31.93

Consistent with section 733(b)(3) of the Act, Commerce disregards zero or *de minimis* rates and preliminarily determines that the individually examined respondent with a zero or *de minimis* rate has not made sales of subject merchandise at LTFV.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for Inox is zero, entries of shipments of subject merchandise from this company will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of entries of subject merchandise produced and exported by Inox. Entries of shipments of subject merchandise from Inox in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for the producer/exporter combination identified above, entries of shipments of subject merchandise from this producer/exporter combination will be excluded from the potential antidumping duty order. Such exclusions are not applicable to merchandise exported to the United States by this respondent in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the ''Preliminary Determination'' section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing

[6] *See* Petitioner's Letter, ''Certain Non-Refillable Cylinders from India—Petition from the Imposition of Antidumping and Countervailing Duties,'' dated April 27, 2023 (Petition).

[7] Commerce has preliminarily determined to collapse Bhiwadi and Sapphire and treat these companies as a single entity. *See* Preliminary Decision Memorandum.

[8] *See* the ''All Others Rate'' section, *supra; see also Initiation Notice,* 88 FR at 33573. The margins alleged in the Petition were 6.24 percent and 61.00 percent.

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

each issue; and (2) a table of authorities.[10]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their briefs that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the Issues and Decision Memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will inform parties of the time and date for the hearing.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 31, 2023, pursuant to 19 CFR 351.210(e), Bhiwadi/Sapphire requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation specification 39, TransportCanada specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 100-cubic inch (1.6 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and are unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by this investigation.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0030 and 7310.29.0065. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–26409 Filed 11–30–23; 8:45 am]

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[10] *See* 19 351.309(c)(2) and (d)(2)

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

[13] *See* Bhiwadi/Sapphire's Letter, ''Bhiwadi's Request for Extension of Final Determination,'' dated October 31, 2023.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–817]

Prestressed Concrete Steel Wire Strand From Ukraine: Rescission of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on prestressed concrete steel wire strand (PC strand) from Ukraine for the period of review (POR) June 1, 2022, through May 31, 2023.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Laura Griffith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6430.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on PC strand from Ukraine.[1] On June 30, 2023, Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corporation (collectively, the petitioners) submitted a timely request that Commerce conduct an administrative review.[2]

On August 3, 2023, Commerce published in the **Federal Register** a notice of initiation of administrative review with respect to imports of PC strand exported and/or produced by PJSC Stalkanat, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i).[3] On August 7, 2023, PJSC Stalkanat filed a no shipments certification for the POR.[4] On August 17, 2023, we placed on the record U.S. Customs and Border Protection (CBP) data for entries of PC strand from Ukraine during the POR, and invited interested parties to comment.[5] On August 24, 2023, PJSC Stalkanat submitted comments on the CBP data. No interested party submitted rebuttal comments to Commerce.

On September 21, 2023, Commerce notified all interested parties of its intent to rescind the instant review, in whole, because there were no eligible reviewable, suspended entries of subject merchandise by PJSC Stalkanat during the POR and invited interested parties to comment.[6] PJSC Stalkanat submitted comments in favor of recission.[7] No other interested party submitted comments to Commerce.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 35835 (June 1, 2023).

[2] *See* Petitioner's Letter, ''Petitioners' Request for Initiation of Second Administrative Review,'' dated June 30, 2023.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 51271 (August 3, 2023).

[4] *See* PJSC Stalkanat's Letter, ''No Shipments Certification,'' dated August 7, 2023.

[5] *See* Memorandum, ''U.S. Customs and Border Protection Query and Comment Period Deadline,'' dated August 17, 2023.

[6] *See* Memorandum, ''Notice of Intent to Rescind Review,'' dated September 21, 2023.

[7] *See* PJSC Stalkanat's Letter, ''Comments on Recission,'' dated September 22, 2023.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[8] Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.[9] Therefore, for an administrative review to be conducted, there must be at least one reviewable, suspended entry that Commerce can instruct CBP to liquidate at the AD assessment rate calculated for the review period.[10] As noted above, there were no eligible reviewable entries of subject merchandise for PJSC Stalkanat during the POR. Accordingly, in the absence of suspended entries of subject merchandise eligible for review during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

[8] *See, e.g., Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022,* 88 FR 24758 (April 24, 2023); *see also Certain Carbon and Alloy Steel Cut- to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4157 (January 24, 2023).

[9] *See* 19 CFR 351.212(b)(1).

[10] *See* 19 CFR 351.213(d)(3).

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: November 27, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–26410 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–839, A–570–067, A–583–863]

Forged Steel Fittings From the People's Republic of China, Taiwan, and Italy: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on forged steel fittings from the People's Republic of China (China), Taiwan, and Italy would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Dennis McClure, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2018, Commerce published in the **Federal Register** the AD order on forged steel fittings from Taiwan,[1] and subsequently published AD orders for the same product from China and Italy on November 26, 2018.[2] On August 18, 2023, Commerce published the notice of initiation of the first sunset reviews of the *Orders,*

[1] *See Forged Steel Fittings from Taiwan: Antidumping Duty Order,* 83 FR 48280 (Sept 24, 2018) (*Taiwan FSF Order*).

[2] *See Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders,* 83 FR 60397 (November 26, 2018) (collectively, the *Orders*).

pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[3]

On August 16, 2023, Commerce received notices of intent to participate in these reviews from Bonney Forge Corporation (Bonney Forge), Phoenix Forge Group d/b/a Capitol Manufacturing Company, LLC (Capitol Manufacturing Company), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).[4] Bonney Forge and Capitol Manufacturing Company claimed interested party status under section 771(9)(C) of the Act as producers of the domestic like product in the United States. The USW is a certified labor union whose members include workers at the facilities in which the domestic like product is produced and is therefore an interested party within the meaning of section 771(9)(D) of the Act and 19 CFR 351.102(b)(17). On August 31, 2023, Commerce received adequate substantive responses from the domestic interested parties.[5] We received no substantive responses from respondent interested parties.

On September 20, 2023, Commerce notified the U.S. International Trade Commission that it did not receive substantive responses from any respondent interested parties.[6] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders.*

[3] *See Initiation of Five-Year (Sunset) Reviews,* 88 FR 50110 (August 18, 2023).

[4] *See* Bonney Forge, Capitol Manufacturing, and USW's Letters, ''Notice of Intent to Participate in the Five-Year Review of the Antidumping Duty Order on Forged Steel Fittings from Italy;'' ''Notice of Intent to Participate in the Five-Year Review of the Antidumping Duty Order on Forged Steel Fittings from Taiwan;'' and ''Notice of Intent to Participate in the Five-Year Review of the Antidumping Duty Order on Forged Steel Fittings from China,'' all dated August 16, 2023.

[5] *See* Bonney Forge, Capitol Manufacturing, and USW's Letters, ''First Five-Year (''Sunset'') Review of Antidumping Duty Order on Forged Steel Fittings from Italy: Domestic Interested Parties' Substantive Response to Notice of Initiation,'' (Substantive Response—Italy); ''First Five- Year (''Sunset'') Review of Antidumping Duty Order on Forged Steel Fittings from Taiwan: Domestic Interested Parties' Substantive Response to Notice of Initiation'' (Substantive Response—Taiwan); and ''First Five-Year (''Sunset'') Review of Antidumping Duty Order on Forged Steel Fittings from China: Domestic Interested Parties' Substantive Response to Notice of Initiation'' (Substantive Response—China),'' all dated August 31, 2023.

[6] *See* Commerce's Letter, ''Sunset Reviews for August 2023,'' dated September 20, 2023.

Scope of the Orders

The products covered by these *Orders* are forged steel fittings from China, Taiwan, and Italy. For a full description of the scope, *see* the Issues and Decision Memorandum.[7]

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews is contained in the accompanying Issues and Decision Memorandum.[8] A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at *http://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighed-average margins up to 142.72 percent for China, up to 116.17 percent for Taiwan, and up to 80.2 percent for Italy.[9]

Administrative Protective Orders

This notice serves as the only reminder to interested parties subject to an Administrative Protective Order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders on Forged Steel Fittings from the People's Republic of China, Taiwan, and Italy,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[8] *See generally* Issues and Decision Memorandum.

[9] *Id.* at 9.

Dated: November 27, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26470 Filed 11–30–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–859]

Brass Rod From Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that brass rod from Brazil is being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Claudia Cott or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4270 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation

on May 24, 2023.[1] On September 8, 2023, Commerce postponed the preliminary determination of this investigation until November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is brass rod from Brazil. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified, in one respect, the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.[7] Commerce intends to issue a final scope decision along with the final determination in the concurrent countervailing duty investigation of brass rod from India, currently due on December 11, 2023.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, Commerce relied on facts available with an adverse inference in determining a weighted-average dumping margin for Megabras Industria Eletronica Ltda. under sections 776(a) and (b) of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Termomecanica Sao Paulo S.A. (Termomecanica), the only individually examined exporter/producer which is participating in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Termomecanica is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Weighted-average dumping margin (percent)
Termomecanica Sao Paulo S.A	24.10
Megabras Industria Eletronica Ltda	77.14
All Others	24.10

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rates for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for

[1] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 33575 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 62054 (September 8, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Brass Rod from Brazil,'' dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33576.

[6] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated September 25, 2023 (Preliminary Scope Decision Memorandum).

[7] Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum and ''Public Comment'' section of this notice.

Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[12]

On November 7, 2023, pursuant to 19 CFR 351.210(e), Termomecanica requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**, pursuant to section 735(a)(2) of the Act.[14]

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of brass rod from Brazil are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[9] *See* 19 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[12] *See* 19 CFR 351.210(e)(2).

[13] *See* Termomecanica's Letter, ''Request for Postponement of Final Determination and Provisional Measures Period,'' dated November 7, 2023.

[14] *See* 19 CFR 351.210(b)(2)(ii).

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–26413 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–858]

Brass Rod From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that brass rod from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Frank Schmitt or Jacob Waddell, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4880 and (202) 482–1369, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 24, 2023.[1] On September 8, 2023, Commerce postponed the preliminary determination of this investigation until November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx*.

Scope of the Investigation

The product covered by this investigation is brass rod from Mexico. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified, in one respect, the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.[7] Commerce intends to issue a final scope decision along with the final determination in the concurrent countervailing duty investigation of brass rod from India, currently due on December 11, 2023.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated constructed export prices in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, Commerce has preliminarily relied upon adverse facts available under sections 776(a) and (b) of the Act in determining the weighted-average dumping margin for Aleamex S.A. de C.V. (Aleamex). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned to Aleamex a rate based entirely on facts available. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Industrias Unidas S.A. de C.V. (IUSA). Consequently, the rate calculated for IUSA is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

[1] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 33575 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 62054 (September 8, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Brass Rod from Mexico,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33576.

[6] *See* Memorandum, ''Less-Than-Fair-Value Investigations of Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa and Countervailing Duty Investigations of Brass Rod from India, Israel, and the Republic of Korea: Preliminary Scope Decision Memorandum,'' dated September 25, 2023 (Preliminary Scope Decision Memorandum).

[7] Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum and ''Public Comment'' section of this notice.

Exporter/producer	Weighted-average dumping margin (percent)
Industrias Unidas S.A. de C.V ...	4.31
Aleamex S.A. de C.V	29.43
All Others	4.31

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.[8] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[10]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 30, 2023, pursuant to 19 CFR 351.210(e), IUSA requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**, pursuant to section 735(a)(2) of the Act.[14]

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of brass rod from Mexico are materially injuring, or threaten material injury to, the U.S. industry.

[8] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[10] *See* 19 351.309(c)(2) and (d)(2).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[13] *See* IUSA's Letter, ''IUSA Extension Request for Final Determination,'' dated October 30, 2023.

[14] *See* 19 CFR 351.210(b)(2)(ii).

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by this investigation may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–26416 Filed 11–30–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–916]

Brass Rod From the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that brass rod from the Republic of Korea (Korea) is being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through March 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037 or (202) 482–4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 24, 2023.[1] On September 8, 2023, Commerce postponed the preliminary determination of this investigation until November 24, 2023.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx*.

Scope of the Investigation

The product covered by this investigation is brass rod from Korea. For a complete description of the scope of this investigation, *see Appendix I*.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] As discussed in the Preliminary Scope Decision Memorandum, Commerce preliminarily modified, in one respect, the scope language that appeared in the

[1] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Initiation of Less-Than-Fair-Value Investigations,* 88 FR 33575 (May 24, 2023) (*Initiation Notice*).

[2] *See Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 88 FR 62054 (September 8, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value in the Investigation of Brass Rod from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 88 FR at 33576.

[6] *See* Memorandum, ''Less-Than-Fair-Value Investigations of Brass Rod from Brazil, India, Israel, Mexico, the Republic of Korea, and South Africa and Countervailing Duty Investigations of Brass Rod from India, Israel, and the Republic of Korea: Preliminary Scope Decision Memorandum,'' dated September 25, 2023 (Preliminary Scope Decision Memorandum).

Initiation Notice. The scope in *Appendix I reflects the modification*.

In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.[7] Commerce intends to issue a final scope decision along with the final determination in the concurrent countervailing duty investigation of brass rod from India, currently due on December 11, 2023.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export prices and constructed export prices in accordance with section 772(a) and (b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins that are above *de minimis* for the mandatory respondents, Booyoung Industry and Daechang Co., Ltd. (Daechang). Commerce calculated the all-others rate by weight-averaging the estimated weighted-average dumping margins that it calculated for the individually examined respondents. Commerce weight-averaged these dumping margins using the publicly ranged total quantities of each respondent's sales of subject merchandise to the United States during the POI.[8]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Booyoung Industry	10.52	10.52
Daechang Co., Ltd./Seowon Co. Ltd./Affiliate A[9] ..	9.01	8.85
All Others	9.36	9.20

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rates for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation.[10] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[11] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[12]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[13] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation.

[7] Case briefs, other written comments, and rebuttal briefs submitted by parties in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum and ''Public Comment'' section of this notice.

[8] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closer to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1; *see also* Memorandum, ''All-Others Rate Calculation,'' dated concurrently with this notice.

[9] Commerce preliminarily determines that Daechang Co., Ltd., Seowon Co. Ltd., and Affiliate A are a single entity. For further discussion, *see* Preliminary Decision Memorandum; *see also* Memorandum, ''Preliminary Affiliation and Collapsing Analysis Memorandum Daechang Co., Ltd., Seowon Co. Ltd., and Affiliate A,'' dated concurrently with this notice. Daechang requested business proprietary treatment for Affiliate A. Commerce is continuing to evaluate the request for proprietary treatment and intends to make a determination regarding the public disclosure of this entity's name before the final determination.

[10] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[12] *See* 19 351.309(c)(2) and (d)(2).

[13] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[14]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by an exporter for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.[15]

On November 8 and 14, 2023, pursuant to 19 CFR 351.210(e), Booyoung Industry and Daechang, respectively, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[16] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports of brass rod from Korea are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 24, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are brass rod and bar (brass rod), which is defined as leaded, low-lead, and no-lead solid brass made from alloys such as, but not limited to the following alloys classified under the Unified Numbering System (UNS) as C27450, C27451, C27460, C34500, C35000, C35300, C35330, C36000, C36300, C37000, C37700, C48500, C67300, C67600, and C69300, and their international equivalents.

The brass rod subject to this investigation has an actual cross-section or outside diameter greater than 0.25 inches but less than or equal to 12 inches. Brass rod cross-sections may be round, hexagonal, square, or octagonal shapes as well as special profiles (*e.g.,* angles, shapes), including hollow profiles.

Standard leaded brass rod covered by the scope contains, by weight, 57.0–65.0 percent copper; 0.5–3.0 percent lead; no more than 1.3 percent iron; and at least 15 percent zinc. No-lead or low-lead brass rod covered by the scope contains by weight 59.0–76.0 percent copper; 0–1.5 percent lead; no more than 0.35 percent iron; and at least 15 percent zinc. Brass rod may also include other chemical elements (*e.g.,* nickel, phosphorous, silicon, tin, etc.).

Brass rod may be in straight lengths or coils. Brass rod covered by these investigations may be finished or unfinished, and may or may not be heated, extruded, pickled, or cold-drawn. Brass rod may be produced in accordance with ASTM B16, ASTM B124, ASTM B981, ASTM B371, ASTM B453, ASTM B21, ASTM B138, and ASTM B927, but such conformity to an ASTM standard is not required for the merchandise to be included within the scope.

Excluded from the scope of this investigation is brass ingot, which is a casting of unwrought metal unsuitable for conversion into brass rod without remelting, that contains, by weight, at least 57.0 percent copper and 15.0 percent zinc.

The merchandise covered by this investigation is currently classifiable under subheadings 7407.21.9000, 7407.21.7000, and 7407.21.1500 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to the scope may also enter under HTSUS subheadings 7403.21.0000, 7407.21.3000, and 7407.21.5000. The HTSUS subheadings and UNS alloy designations are provided for convenience and customs purposes. The written description of the scope of the investigations is dispositive.

Appendix II

List of Sections in the Preliminary Decision Memorandum

[FR Doc. 2023–26415 Filed 11–30–23; 8:45 am]

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[14] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[15] *See* 19 CFR 351.210(e)(2).

[16] *See* Booyoung Industry's Letter, ''Request for Extension of Final Determination,'' dated November 8, 2023; *see also* Daechang's Letter, ''Request to Extend the Deadline for the Final Determination,'' dated November 14, 2023.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the U.S. Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to: (a) identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity To Request A Review: Not later than the last day of December 2023,[2] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[2] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when Commerce is closed.

Antidumping Duty Proceedings	
Brazil: Carbon Steel Butt-Weld Pipe Fittings, A–351–602	12/1/22–11/30/23
Chile: Certain Preserved Mushrooms, A–337–804	12/1/22–11/30/23
Germany: Non-Oriented Electrical Steel, A–428–843	12/1/22–11/30/23
India:	
Carbazole Violet Pigment 23, A–533–838	12/1/22–11/30/23
Certain Hot-Rolled Carbon Steel Flat Products, A–533–820	12/1/22–11/30/23
Commodity Matchbooks, A–533–848	12/1/22–11/30/23
Forged Steel Fittings, A–533–891	12/1/22–11/30/23
Stainless Steel Wire Rod, A–533–808	12/1/22–11/30/23
Utility Scale Wind Towers, A–533–897	12/1/22–11/30/23
Indonesia:	
Certain Hot-Rolled Carbon Steel Flat Products, A–560–812	12/1/22–11/30/23
Polyester Textured Yarn, A–560–838	12/1/22–11/30/23
Japan:	
Non-Oriented Electrical Steel, A–588–872	12/1/22–11/30/23
Prestressed Concrete Steel Wire Strand, A–588–068	12/1/22–11/30/23
Welded Large Diameter Line Pipe, A–588–857	12/1/22–11/30/23
Oman: Circular Welded Carbon-Quality Steel Pipe, A–523–812	12/1/22–11/30/23
Malaysia:	
Utility Scale Wind Towers, A–557–821	12/1/22–11/30/23
Polyester Textured Yarn, A–557–823	12/1/22–11/30/23
Pakistan: Circular Welded Carbon-Quality Steel Pipe, A–535–903	12/1/22–11/30/23
Republic of Korea:	
Certain Superabsorbent Polymers, A–580–914	6/7/22–11/30/23
Forged Steel Fittings, A–580–904	12/1/22–11/30/23
Non-Oriented Electrical Steel, A–580–872	12/1/22–11/30/23
Welded ASTM A–312 Stainless Steel Pipe, A–580–810	12/1/22–11/30/23
Welded Line Pipe, A–580–876	12/1/22–11/30/23
Russia: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–821–809	12/1/22–11/30/23
Singapore: Acetone, A–559–808	12/1/22–11/30/23
Socialist Republic of Vietnam:	
Polyester Textured Yarn, A–552–832	12/1/22–11/30/23
Uncovered Innerspring Units, A–552–803	12/1/22–11/30/23
South Africa: Uncovered Innerspring Units, A–791–821	12/1/22–11/30/23
Spain: Acetone, A–469–819	12/1/22–11/30/23
Sweden: Non-Oriented Electrical Steel, A–401–809	12/1/22–11/30/23
Taiwan:	
Carbon Steel Butt-Weld Pipe Fittings, A–583–605	12/1/22–11/30/23
Non-Oriented Electrical Steel, A–583–851	12/1/22–11/30/23
Steel Wire Garment Hangers, A–583–849	12/1/22–11/30/23
Welded ASTM A–312 Stainless Steel Pipe, A–583–815	12/1/22–11/30/23
Thailand:	
Carbon and Alloy Steel Threaded Rod, A–549–840	12/1/22–11/30/23
Polyester Textured Yarn, A–549–843	12/1/22–11/30/23
The People's Republic of China:	
Aluminum Wire and Cable, A–570–095	12/1/22–11/30/23
Carbazole Violet Pigment 23, A–570–892	12/1/22–11/30/23
Cased Pencils, A–570–827	12/1/22–11/30/23
Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, A–570–979	12/1/22–11/30/23
Hand Trucks and Certain Parts Thereof, A–570–891	12/1/22–11/30/23
Honey, A–570–863	12/1/22–11/30/23
Malleable Cast Iron Pipe Fittings, A–570–881	12/1/22–11/30/23
Mattresses, A–570–092	12/1/22 –11/30/23
Melamine, A–570–020	12/1/22–11/30/23
Multilayered Wood Flooring, A–570–970	12/1/22–11/30/23
Non-Oriented Electrical Steel, A–570–996	12/1/22–11/30/23
Refillable Stainless Steel Kegs, A–570–093	12/1/22–11/30/23
Silicomanganese, A–570–828	12/1/22–11/30/23
Vertical Metal File Cabinets, A–570–110	12/1/22–11/30/23
Turkey: Welded Line Pipe, A–489–822	12/1/22–11/30/23
United Arab Emirates: Circular Welded Carbon-Quality Steel Pipe, A–520–807	12/1/22–11/30/23
Countervailing Duty Proceedings	
India:	
Carbazole Violet Pigment 23, C–533–839	1/1/22–12/31/22
Certain Hot-Rolled Carbon Steel Flat Products, C–533–821	1/1/22–12/31/22
Commodity Matchbooks, C–533–849	1/1/22–12/31/22
Forged Steel Fittings, C–533–892	1/1/22–12/31/22
Utility Scale Wind Towers, C–533–898	1/1/22–12/31/22
Indonesia: Certain Hot-Rolled Carbon Steel Flat Products, C–560–813	1/1/22–12/31/22
Taiwan: Non-Oriented Electrical Steel, C–583–852	1/1/22–12/31/22
Thailand: Certain Hot-Rolled Carbon Steel Flat Products, C–549–818	1/1/22–12/31/22
The People's Republic of China:	
Aluminum Wire and Cable, C–570–096	1/1/22–12/31/22
Crystalline Silicon Photovoltaic Cells, Whether Or Not Assembled Into Modules, C–570–980	1/1/22–12/31/22

Melamine, C–570–021	1/1/22–12/31/22
Mobile Access Equipment and Subassemblies Thereof, C–570–140	1/1/22–12/31/22
Non-Oriented Electrical Steel, C–570–997	1/1/22–12/31/22
Multilayered Wood Flooring, C–570–971	1/1/22–12/31/22
Refillable Stainless Steel Kegs, C–570–094	1/1/22–12/31/22
Vertical Metal File Cabinets, C–570–111	1/1/22–12/31/22
Turkey: Welded Line Pipe, C–489–823	1/1/22–12/31/22
Suspension Agreements	
Mexico:	
Sugar, A–201–845	12/1/22–11/30/23
Sugar, C–201–846	1/1/23–12/31/23

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov.*[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of December 2023. If Commerce does not receive, by the last day of December 2023, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

[3] *See* the Enforcement and Compliance website at *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[7] *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[8] On September 27, 2021, Commerce also published the notice entitled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[9] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[10]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS, and on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [11]

As mentioned in the *Procedural Guidance,* beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.[12] Accordingly, Commerce will update the annual inquiry service lists for the above-listed antidumping and countervailing duty proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) new interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year's annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from ''Active'' to ''Needs Amendment'' for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the *Final Rule,*[13] once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov*.

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [14] Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

This notice is not required by statute but is published as a service to the international trading community.

Dated: November 27, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–26469 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–803]

Light-Walled Welded Rectangular Carbon Steel Tubing From Taiwan: Rescission of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on light-walled welded rectangular carbon steel tubing (LWRT) from Taiwan for the period of review (POR) March 1, 2022, through February 28, 2023.

DATES: Applicable December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

[8] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[9] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[10] *Id.*

[11] This segment has been combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[12] *See Procedural Guidance,* 86 FR at 53206.

[13] *See Final Rule,* 86 FR at 52335.

[14] *Id.*

Background

On March 27, 1989, Commerce published in the **Federal Register** an AD order on LWRT from Taiwan.[1] On March 2, 2023, we published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.[2] On May 9, 2023, based on a timely request for an administrative review, Commerce initiated this administrative review with respect to one company, Hoa Phat Steel Pipe Company Limited (Hoa Phat).[3]

On May 17, 2023, we placed on the record U.S. Customs and Border Protection (CBP) data for entries of LWRT from Taiwan during the POR, showing no suspended entries, and invited interested parties to comment on the CBP data.[4] No interested party submitted comments to Commerce. On June 8, 2023, Hoa Phat submitted a certification that it had no exports, sales, or entries during the POR.[5]

On October 2, 2023, Commerce notified all interested parties of its intent to rescind the review in full because there were no suspended entries by any of the companies subject to this review during the POR and invited interested parties to comment on Commerce's intent to rescind.[6] On October 10, 2023, Hoa Phat submitted comments regarding Commerce's intent to rescind the review.[7] No other interested parties commented on the Intend to Rescind Memorandum.

Interested-Party Comment

Hoa Phat argues that Commerce should grant Hoa Phat the right to properly certify the origin of the hot-rolled steel used to produce the LWRT exported to the United States during the POR for both past and future entries.[8] Hoa Phat contends that it requested an administrative review here so that Commerce could determine whether any of Hoa Phat's exports were, in fact, subject to the *Order,* and to reconsider Hoa Phat's eligibility for the hot-rolled steel certification process.[9] According to Hoa Phat, Commerce has previously explained that an administrative review is its preferred mechanism for reconsidering certification eligibility.[10] Hoa Phat asserts that, for Commerce to have expressed a preferred path for reconsideration of certification eligibility but then to deny that mechanism for reconsideration to Hoa Phat would be inconsistent with its stated practice and an abuse of discretion.[11]

We disagree with Hoa Phat. In *LWRT Tubing Circumvention Final,* we stated that, ''{b}ecause entries of LWR tubing produced or exported by Hoa Phat currently must be entered as subject to the cash deposit rates established under the *LWRPT China Orders* pursuant to Commerce's {preliminary determination}, Hoa Phat, or any other interested party with standing to request a review of Hoa Phat's entries may request an administrative review of its entries under the *LWRPT China Orders*.'' [12] Thus, the proper venue for Commerce to reconsider Hoa Phat's certification eligibility is in the context of administrative reviews of the *LWRPT China Orders*. In fact, Commerce initiated an administrative review of Hoa Phat on each of the *LWRPT China Orders*.[13]

Accordingly, we are rescinding this review because there are no suspended entries during the POR for any of the companies for which this review has been initiated. Further, Hoa Phat's opportunity to request that Commerce reconsider its eligibility to certify the origin of the hot-rolled steel which it used to produce LWRPT, as provided for in the *LWRT Tubing Circumvention Final,* has not been abrogated, and Hoa Phat's eligibility to certify will be determined in the context of the *LWRPT China Orders* administrative reviews.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order when there are no suspended entries during the POR for the companies for which the review was initiated.[14] Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.[15] Therefore, for an administrative review to be conducted, there must be at least one suspended entry for which Commerce can instruct CBP to liquidate at the AD assessment rate calculated for the review period.[16] As noted above, there were no suspended entries for any of the companies subject to this review during the POR. Accordingly, in the absence of suspended entries during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

[1] *See Antidumping Duty Order; Light-Walled Welded Rectangular Carbon Steel Tubing From Taiwan,* 54 FR 12467 (March 27, 1989) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 13091 (March 2, 2023).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 29881, 29884 (May 9, 2023).

[4] *See* Memorandum, ''U.S. Customs and Border Protection Data Release,'' dated May 17, 2023.

[5] *See* Hoa Phat's Letter, ''Notice of No Sale,'' dated June 8, 2023.

[6] *See* Memorandum, ''Intent to Rescind Review,'' dated October 2, 2023.

[7] *See* Hoa Phat's Letter, ''Comment on Intent to Rescind the Review,'' dated October 10, 2023.

[8] *Id.* at 1–2.

[9] *Id.* at 2.

[10] *Id.* at 3–4 (citing, *e.g., Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Scope Determination and Final Affirmative Determinations of Circumvention With Respect to Cambodia, Malaysia, Thailand, and Vietnam,* 88 FR 57419 (August 23, 2023), and accompanying Vietnam Issues and Decision Memorandum (IDM) at Comment 19; and *Certain Hardwood Plywood Products from the People's Republic of China: Final Scope Determination and Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders,* 88 FR 46470 (July 20, 2023), and accompanying IDM at Comment 13, Subsection, ''Reconsidering Certification Eligibility'').

[11] *Id.* at 4.

[12] *See Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,* 88 FR 77274 (November 9, 2023) (*LWRT Tubing Circumvention Final*), and accompanying IDM at Comment 5 (citing *Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less than Fair Value,* 73 FR 45403 (August 5, 2008); and *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Notice of Countervailing Duty Order,* 73 FR 45405 (August 5, 2008) (collectively, *LWRPT China Orders*)).

[13] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 71829, 71835, 71837 (October 18, 2023).

[14] *See, e.g., Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022,* 88 FR 24758 (April 24, 2023); *see also Certain Carbon and Alloy Steel Cut- to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4157 (January 24, 2023).

[15] *See* 19 CFR 351.212(b)(1).

[16] *See* 19 CFR 351.213(d)(3).

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: November 28, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–26471 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under sections 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for January 2024

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in January 2024 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping duty proceedings	
Common Alloy Aluminum Sheet from China, A–570–073 (1st Review)	Jacky Arrowsmith, (202) 482–5255.
Rubber Bands from China, A–570–069 (1st Review)	Mary Kolberg, (202) 482–1785.
Rubber Bands from Thailand, A–549–835 (1st Review)	Mary Kolberg, (202) 482–1785.
Truck and Bus Tires from China, A–570–040 (1st Review)	Mary Kolberg, (202) 482–1785.
Countervailing Duty Proceedings	
Common Alloy Aluminum Sheet from China, C–570–074 (1st Review)	Jacky Arrowsmith, (202) 482–5255.
Truck and Bus Tires from China, C–570–041 (1st Review)	Mary Kolberg, (202) 482–1785.
Rubber Bands from China, C–570–070 (1st Review)	Mary Kolberg, (202) 482–1785.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in January 2024.	

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[1]

This notice is not required by statute but is published as a service to the international trading community.

Dated: November 21, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–26468 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD555]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its On-Demand Gear Conflict Working Group to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This hybrid meeting will be held on Monday, December 18, 2023, at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Webinar registration URL information: https://attendee.gotowebinar.com/register/2711271864054869079.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The On-Demand Fishing Gear Conflict Working Group (ODWG) will meet to discuss the analysis of gear conflict remediation measures in regional and Federal fishery management plans as well as the analysis of spatial and temporal overlap of fishing activity with protected species closures. The ODWG will receive a presentation on experimental gillnet gear by Blue Planet Strategies. They will also receive a briefing from NOAA Office of Law Enforcement on on-demand gear training workshop as well as a briefing from NOAA Greater Atlantic Regional Fisheries Office (GARFO) on on-demand gear activities funded by the Inflation Reduction Act. The group will receive a briefing from GARFO on November Interoperability Workshop. Updates on other on-demand gear-related activities will also be discussed. Other business will be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 27, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–26391 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD518]

Western Pacific Fishery Management Council; Public Meetings; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of time changes of public meetings and notice of a partially closed meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Executive and Budget Standing Committee and its 197th Council meeting to take actions on fishery management issues in the Western Pacific Region. A portion of the 197th Council meeting will be closed to the public.

DATES: The meetings will be held between December 11 and December 13, 2023. For specific times and agendas, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meetings will be held by web conference via WebEx. Specific information on joining the meeting, connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

The following venue will be the host site for the Executive and Budget Standing Committee web conference:

- Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

The following venues will be the host sites for the 197th Council meeting web conference:

- Council Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI;
- Cliff Pointe, 304 W O'Brien Drive, Hagatna, Guam;
- BRI Building, Suite 205, Kopa Di Oru St., Garapan, Saipan, Commonwealth of the Northern Mariana Islands (CNMI); and
- Tedi of Samoa Building, Suite 208B, Fagatogo Village, American Samoa.

Council address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on November 13, 2023 (88 FR 77560). This notice changes the time for the Executive and Budget Standing Committee meeting, changes the start time of the 197th Council Meeting, and announces a closed session for the 197th Council Meeting. All other information previously published remains unchanged.

The Executive and Budget Standing Committee meeting will be held between 12 p.m. and 2:30 p.m. Hawaii Standard Time (HST) on December 11, 2023. The 197th Council Meeting will be held between 10 a.m. and 5 p.m. HST on December 12, 2023, and between 11 a.m. and 5 p.m. HST on December 13, 2023. The portion of the 197th Council Meeting from 10 a.m. and 11 a.m. HST on December 12, 2023, will be closed to the public in accordance with Section 302(i)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for a briefing on litigation by counsel. Public Comment on Non-Agenda Items will be held between 4:30 p.m. and 5 p.m. HST on December 12, 2023.

Agenda items noted as ''Final Action'' refer to actions that may result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the MSA. In addition to the agenda items listed here, the Council and its advisory bodies will hear recommendations from Council advisors. An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in advance at the Council meeting. The meetings will run as late as necessary to complete scheduled business.

Background documents for the 197th Council meeting will be available at *www.wpcouncil.org.* Written public comments on final action items at the 197th Council meeting should be received at the Council office by 5 p.m. HST, Thursday, December 8, 2023, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, phone: (808) 522–8220 or fax: (808) 522–8226; or email: *info@wpcouncil.org.* Written public comments on all other agenda items may be submitted for the record by email throughout the duration of the meeting. Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded (audio

only) for the purposes of generating the minutes of the meeting.

Revised Schedule and Agenda for the Executive and Budget Standing Committee Meeting

Monday, December 11, 2023, 12 p.m. to 2:30 p.m., HST

1. Introductions and Approval of Agenda
2. Financial Reports
3. Administrative Reports
4. Inflation Reduction Act
5. Council Family Changes
6. Meetings and Workshops
7. Council Coordination Committee Meeting Outcomes
8. Election of Officers
9. Other Business
10. Public Comment
11. Discussion and Recommendations

Revised Schedule and Agenda for the 197th Council Meeting

Tuesday, December 12, 2023, 10 a.m. to 11 a.m., HST

Closed Session on Litigation Related Matters (pursuant to MSA § 302(i)(3))

Tuesday, December 12, 2023, 11 a.m. to 5 p.m., HST

1. Welcome and Introductions
2. Oath of Office—New Council Member
3. Approval of the 197th CM Agenda
4. Approval of the 196th CM Meeting Minutes
5. Executive Director's Report
6. Federal Agency Reports
   - A. National Marine Fisheries Service
   - B. NOAA Office of General Counsel Pacific Islands Section
   - C. Ethics Training
   - D. Enforcement Reports
   - E. U.S. State Department
   - F. U.S. Fish and Wildlife Service
   - G. Public Comment
   - H. Council Discussion and Action
7. Island Agency Reports
   - A. American Samoa Department of Marine and Wildlife Resources
   - B. CNMI Department of Lands and Natural Resources
   - C. Guam Department of Agriculture
   - D. Hawaii Department of Land and Natural Resources
   - E. Public Comment
   - F. Council Discussion and Action
8. Action Items
   - A. Fishing Regulations for the Proposed Pacific Remote Island National Marine Sanctuary (Final Action)
   - B. Advisory Group Report and Recommendations
   - B.1 FIAC
   - B.2 AP
   - B.3 SSC
   - C. Public Comment
   - D. Council Discussion and Action

Tuesday, December 12, 2023, 4:30 p.m. to 5 p.m., HST

Public Comment on Non-Agenda Items

Wednesday, December 13, 2023, 11 a.m. to 5 p.m., HST

9. Action Items Continued
   - A. Discontinuing the Rebuilding Plan and Annual Catch Limit Specifications for the American Samoa Bottomfish Fishery for 2024–2026 (Final Action)
   - B. Hawaii FEP Uku Essential Fish Habitat Revision Amendment (Final Action)
   - C. Guam Bottomfish Stock Assessment WPSAR Terms of Reference
   - D. Multi-year U.S. Territorial Bigeye Tuna Catch Limit and Allocation Specification (Final Action)
   - E. Advisory Group Report and Recommendations
   - E.1 FIAC
   - E.2 AP
   - E.3 SSC
   - F. Public Comment
   - G. Council Discussion and Action
10. Program Items
    - A. Council IRA Application Priorities and Development
    - B. Pelagic and International Fisheries
    - B.1 Council WCPO Longline Management Workshops
    - B.2 Outcomes of 20th Regular Session of the WCPFC
    - C. Advisory Group Report and Recommendations
    - C.1 FIAC
    - C.2 AP
    - C.3 SSC
    - D. Public Comment
    - E. Council Discussion and Action
11. Administrative Matters
    - A. Financial Reports
    - B. Administrative Reports
    - C. Council Family Changes
    - D. Meetings and Workshops
    - E. Report on the CCC Meeting Outcomes
    - F. Executive and Budget Standing Committee Report
    - G. Public Comment
    - H. Council Discussion and Action
12. Other Business
13. Election of Officers

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during its 197th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2023.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2023–26484 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the Commerce Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information and the National Telecommunications and Information Administration (NTIA) on spectrum management policy matters.

DATES: The meeting will be held December 19, 2023, from 2:00 p.m. to 5:00 p.m., Eastern Standard Time (EST).

ADDRESSES: The meeting will be held at the NCTA—The internet and Television Association, 25 Massachusetts Avenue NW, Suite 100, Washington, DC 20001. Public comments may be emailed to *arichardson@ntia.gov* or mailed to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW, Room 4600, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Antonio Richardson, Designated Federal Officer, at (202) 482–4156 or *arichardson@ntia.gov;* and/or visit NTIA's website at *https://www.ntia.gov/category/csmac.*

SUPPLEMENTARY INFORMATION:

Background: The Committee provides advice to the Assistant Secretary of

Commerce for Communications and Information on needed reforms to domestic spectrum policies and management in order to: license radio frequencies in a way that maximizes public benefits; keep wireless networks as open to innovation as possible; and make wireless services available to all Americans. *See* Charter at *https://www.ntia.doc.gov/files/ntia/publications/csmac-charter-2021.pdf.*

This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. 904(b). The Committee functions solely as an advisory body in compliance with the FACA. For more information about the Committee visit: *http://www.ntia.gov/category/csmac.*

Matters To Be Considered: The planned meeting for Tuesday, December 19, 2023, will be the last meeting of this term and will include the final reports and recommendations from the Citizens Broadband Radio Service (CBRS), 6G wireless systems, and Electromagnetic Compatibility Improvements (ECI) subcommittees. NTIA will post a detailed agenda on its website, *http://www.ntia.gov/category/csmac,* prior to the meeting. To the extent that the meeting time and agenda permit, any member of the public may address the Committee regarding the agenda items. *See Open Meeting and Public Participation Policy,* available at *http://www.ntia.gov/category/csmac.*

Time and Date: The meeting will be held on December 19, 2023, from 2:00 p.m. to 5:00 p.m., Eastern Standard Time (EST). The meeting time and the agenda topics are subject to change. Please refer to NTIA's website, *http://www.ntia.gov/category/csmac,* for the most up-to-date meeting agenda and access information.

Place: The meeting will be held at the NCTA—The internet and Television Association, 25 Massachusetts Avenue NW, Suite 100, Washington, DC 20001. Individuals requiring accommodations are asked to notify Mr. Richardson at (202) 482–4156 or *arichardson@ntia.gov* at least ten (10) business days before the meeting.

Status: Interested parties are invited to join the teleconference and to submit written comments to the Committee at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of the meeting are strongly encouraged to submit their comments in PDF and/or Microsoft Word format via electronic mail to *arichardson@ntia.gov.* Comments may also be sent via postal mail to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW, Room 4600, Washington, DC 20230. It would be helpful if paper submissions also include a compact disc (CD) that contains the comments in one or both of the file formats specified above. CDs should be labeled with the name and organizational affiliation of the filer. Comments must be received five (5) business days before the scheduled meeting date in order to provide sufficient time for review. Comments received after this date will be distributed to the Committee but may not be reviewed prior to the meeting. Additionally, please note that there may be a delay in the distribution of comments submitted via postal mail to Committee members.

Records: NTIA maintains records of all Committee proceedings. Committee records are available for public inspection at NTIA's Washington, DC office at the address above. Documents including the Committee's charter, member list, agendas, minutes, and reports are available on NTIA's website at *http://www.ntia.gov/category/csmac.*

Stephanie Weiner,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2023–26425 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2023–0041]

Semiconductor Technology Pilot Program

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is implementing the Semiconductor Technology Pilot Program, which is designed to accelerate improvements in the semiconductor industry by expediting examination of patent applications for certain semiconductor manufacturing innovations. The pilot program is intended to encourage research, development, and innovation in the semiconductor manufacturing space and provide equitable intellectual property protection to incentivize investments in the semiconductor manufacturing area. Expediting examination of patent applications directed to semiconductor manufacturing under this pilot program encourages innovations that increase semiconductor device production, reduce semiconductor manufacturing costs, and strengthen the semiconductor supply chain. Applications accepted into the pilot program will be advanced out of turn (accorded special status) for examination until a first Office action is issued. This notice outlines the conditions, requirements, and guidelines of the pilot program.

DATES: *Pilot Duration:* The Semiconductor Technology Pilot Program will accept petitions to make special beginning December 1, 2023 until either December 2, 2024 or the date the USPTO accepts a total of 1,000 grantable petitions, whichever occurs first. The USPTO may, at its sole discretion, terminate the pilot program depending on factors such as workload and resources needed to administer the program, feedback from the public, and the effectiveness of the program. If the pilot program is terminated, the USPTO will notify the public. The USPTO will indicate on its website at *www.uspto.gov/SemiconductorTechnology* the total number of petitions filed and the number of applications accepted into the pilot program.

FOR FURTHER INFORMATION CONTACT: For general questions regarding this pilot program, please contact Steven J. Fulk, Legal Advisor, at 571–270–0072 or *Steven.Fulk@uspto.gov;* Nalini Mummalaneni, Senior Legal Advisor, at 571–270–1647 or *Nalini.Mummalaneni@uspto.gov;* or Susy Tsang-Foster, Senior Legal Advisor, at 571–272–7711 or *Susy.Tsang-Foster@uspto.gov,* all from the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy. For questions relating to a particular petition, please contact Bumsuk Won, Management Quality Assurance Specialist, at 571–272–2713 or *Bumsuk.Won@uspto.gov;* or William Kraig, Supervisory Patent Examiner, at 571–272–8660 or *William.Kraig@uspto.gov,* both of Technology Center 2800. For questions on electronic filing, please contact the Patent Electronic Business Center (EBC) at 866–217–9197 (during its operating hours of 6 a.m. to midnight ET, Monday–Friday) or *ebc@uspto.gov.*

SUPPLEMENTARY INFORMATION: New patent applications are normally taken up for examination in the order of their U.S. filing date or national stage entry date. See sections 708 and 1893.03(b) of

the Manual of Patent Examining Procedure (9th ed., Rev. 07.2022, February 2023) (MPEP). The USPTO has procedures under which an application will be advanced out of turn (accorded special status) for examination if the applicant files (1) a petition to make special under 37 CFR 1.102(c) or (d) with the appropriate showing, or (2) a request for prioritized examination under 37 CFR 1.102(e). See 37 CFR 1.102(c)–(e) and MPEP 708.02, 708.02(a), and 708.02(b). The USPTO revised its accelerated examination procedures effective August 25, 2006, requiring that all petitions to make special comply with the requirements of the revised accelerated examination (AE) program set forth in MPEP 708.02(a), except those based on an inventor's health or age or the Patent Prosecution Highway (PPH) Pilot Program. See *Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination,* 71 FR 36323 (June 26, 2006).

The USPTO is implementing the Semiconductor Technology Pilot Program to support the Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022 (see Pub. L. 117–167, 136 Stat. 1366 (2022)), which provides appropriations to implement the semiconductor provisions included in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (see Pub. L. 116–283, 134 Stat. 3388 (2021)). The pilot program also supports Executive Order 14080, dated August 25, 2022, which implements the incentives for semiconductor manufacturing provided by the CHIPS Act. See Executive Order 14080 of August 25, 2022, Implementation of the CHIPS Act of 2022, 87 FR 52847 (August 30, 2022). The CHIPS Act allocates transformative investments that are designed to increase semiconductor manufacturing capacity and improve the resilience of the semiconductor supply chain. The Semiconductor Technology Pilot Program supports the CHIPS Act by encouraging research, development, and innovation in the semiconductor manufacturing space and providing equitable intellectual property protection to incentivize investments in the semiconductor manufacturing area. Expediting examination of patent applications directed to certain processes and apparatuses for manufacturing semiconductor devices under this pilot program can help achieve the goals of the CHIPS Act by encouraging innovations that increase semiconductor device production, reduce semiconductor manufacturing costs, and strengthen the semiconductor supply chain.

The pilot program permits an application that claims certain processes or apparatuses for manufacturing semiconductor devices to be advanced out of turn (accorded special status) until a first Office action is issued without meeting all of the requirements of the accelerated examination program set forth in MPEP 708.02(a) (for example, examination support document) if the applicant files a petition to make special under 37 CFR 1.102(d) meeting all of the requirements set forth in this notice.

To qualify for the pilot program, the applicant must file a petition to make special under the pilot program, and the application must claim an invention directed to certain processes or apparatuses for manufacturing semiconductor devices. The applicant must certify in the petition to make special that: (1) the applicant has a good faith belief that the claimed invention(s) meeting the technology requirement of the pilot program improves the manufacturing of semiconductor devices; (2) the process or apparatus covered by the claimed invention(s) meeting the technology requirement of the pilot program is disclosed in the specification as being primarily focused on the manufacturing of semiconductor devices; (3) the applicant has a good faith belief that expediting examination of the application will have a positive impact on the semiconductor manufacturing industry, such as increasing semiconductor device production, lowering semiconductor manufacturing costs, or increasing the resilience of the semiconductor supply chain; and (4) the inventor or any joint inventor has not been named as the inventor or a joint inventor on more than four other nonprovisional applications in which a petition to make special under this pilot program has been filed. Applications accepted into the pilot program will be advanced out of turn (accorded special status) until a first Office action is issued without meeting all of the current requirements, including any extra fee payments, of the accelerated examination program (for example, the requirement for an examination support document) or the prioritized examination program (for example, the prioritized examination fee or processing fee).

All other requirements of the accelerated examination program that are not required by this notice, including the 37 CFR 1.17(h) fee for a petition to make special under 37 CFR 1.102(d), are hereby waived based upon the special procedure specified in this notice. No fees or requirements other than those discussed above are waived by this pilot program. The USPTO will periodically evaluate the pilot program to determine whether and to what extent its coverage should be expanded or limited.

Part I. Requirements To Participate

A petition to make special under the pilot program may be granted in an application provided that the following conditions are satisfied:

(1) Types of Applications and Time for Filing Petition

The petition to make special under the pilot program must be filed:

(a) with the filing of a noncontinuing original utility nonprovisional application or entry into the national stage under 35 U.S.C. 371, or within 30 days of the filing date or entry date of the application; or

(b) with the filing of an original utility nonprovisional application claiming the benefit of an earlier filing date under 35 U.S.C. 120, 121, 365(c), or 386(c) of only one prior nonprovisional application or only one prior international application designating the United States or within 30 days of the filing date of such application.

Definition

Noncontinuing application: A noncontinuing application is an application that is not a continuation, divisional, or continuation-in-part application filed under the conditions specified in 35 U.S.C. 120, 121, 365(c), or 386(c) and 37 CFR 1.78. See MPEP 201.02.

The pilot program is reserved for the nonprovisional applications described above that have not received a first Office action (including a written restriction requirement). Any application that claims the benefit of the filing date of two or more prior filed applications that are nonprovisional U.S. applications and/or international applications designating the United States is not eligible for participation in the pilot program. Claiming the benefit under 35 U.S.C. 119(e) of one or more prior provisional applications or claiming a right of priority under 35 U.S.C. 119(a)–(d) or (f) to one or more foreign applications will not affect eligibility for the pilot program.

(2) Office Form Required for Filing Petition

To participate in this pilot program, an applicant must file a petition to make special using form PTO/SB/467, titled ''CERTIFICATION AND PETITION TO

MAKE SPECIAL UNDER THE SEMICONDUCTOR TECHNOLOGY PILOT PROGRAM'' (available at *www.uspto.gov/PatentForms*). Form PTO/SB/467 contains the necessary certifications for qualification to participate in the pilot program. Use of the form will enable the USPTO to quickly identify and timely process the petition. In addition, use of the form will help applicants understand and comply with the petition requirements of the pilot program. Under 5 CFR 1320.3(h), form PTO/SB/467 does not collect ''information'' within the meaning of the Paperwork Reduction Act of 1995.

(3) The Application Must Include at Least One Claim That Meets the Technology Requirement

The application must contain at least one claim that covers a process or an apparatus for manufacturing a semiconductor device and corresponds to one or more of the technical concepts within H10 (Semiconductor Devices; Electric Solid-State Devices Not Otherwise Provided For) or H01L (Semiconductor Devices Not Covered by Class H10) in the Cooperative Patent Classification (CPC) system.

The full schemes of the H10 class and the H01L subclass are available at *www.uspto.gov/web/patents/classification/.*

(4) Required Certifications

The petition to make special must certify that: (a) the applicant has a good faith belief that the claimed invention(s) meeting the technology requirement of the pilot program improves the manufacturing of semiconductor devices; (b) the process or apparatus covered by the claimed invention(s) meeting the technology requirement of the pilot program is disclosed in the specification as being primarily focused on the manufacturing of semiconductor devices; (c) the applicant has a good faith belief that expediting examination of the application will have a positive impact on the semiconductor manufacturing industry, such as increasing semiconductor device production, lowering semiconductor manufacturing costs, or increasing the resilience of the semiconductor supply chain; and (d) the inventor or any joint inventor has not been named as the inventor or a joint inventor on more than four other nonprovisional applications in which a petition to make special under this pilot program has been filed. Form PTO/SB/467 contains these certifications.

(5) Publication Requirement for Applications

If the applicant files the petition to make special on the date of filing of an application, the application may not be filed with a nonpublication request. If the applicant previously filed a nonpublication request in the application, the applicant should file a rescission of the nonpublication request no later than the time the petition to make special is filed. The applicant may use form PTO/SB/36 to rescind the nonpublication request.

(6) Claim Limits and No Multiple Dependent Claims

The application must contain no more than three independent claims and no more than 20 total claims (''program claim limits'') and must not contain any multiple dependent claims. If an application exceeds three independent claims or 20 total claims, or if it contains any multiple dependent claims, the applicant should file a preliminary amendment in compliance with 37 CFR 1.121 to cancel any excess claims or multiple dependent claims no later than the date the petition to make special under the pilot program is filed. After an application has been granted special status under the pilot program, any amendment that does not comply with the program claim limits or adds a multiple dependent claim is not permitted. The petition must include a statement that the applicant agrees not to exceed the program claim limits or add any multiple dependent claims during the remainder of prosecution of the application if the application has been granted special status under the pilot program. The examiner may refuse entry of any amendment filed in reply to an Office action that, if entered, would result in a set of pending claims that exceeds the program claim limits or adds a multiple dependent claim. See Part V of this notice.

(7) Statement Regarding Restriction Requirement, Elected Invention and Claim Requirements

The petition must include a statement that the applicant agrees to the following if the application is granted special status under the pilot program:

(a) If a requirement for restriction or unity of invention is made, the applicant will make an election to an invention that meets the technology requirement of this pilot program, and

(b) During the remainder of prosecution of the application: (i) the applicant will not exceed the program claim limits or add any multiple dependent claims; and (ii) the applicant will not cancel all claims to the elected invention or all claims that meet the technology requirement of this pilot program.

(8) Electronic Filing of Application and Petition Required

The petition to make special may only be made by filing form PTO/SB/467, which must be filed electronically using the USPTO's Patent Center (at *https://patentcenter.uspto.gov*). Applicants must file the petition using the document description (''*Petition for Semiconductor Pilot*'') indicated on form PTO/SB/467. In addition, the application or national stage entry must be filed using Patent Center.

(9) Required Use of DOCX Format for Specification, Claim(s), and Abstract on Filing or on National Stage Entry

The specification, claim(s), and abstract of the application must be submitted in DOCX format at the time the application is filed or enters the national stage. Prior to submitting the application for filing in DOCX format, applicants will receive a feedback document. Applicants may find it beneficial to review the feedback document and make corrections to the application before filing the application. By making the necessary corrections before filing, applicants may avoid delays that can occur in the pre-examination process. For more information on DOCX filing in Patent Center, please see *www.uspto.gov/patents/docx.* Applicants can direct any inquiries concerning electronic filing of the petition and application to the EBC at 866–217–9197 or *ebc@uspto.gov.*

(10) Filing Limitations

An applicant may file a petition to participate in the pilot program if the inventor or any joint inventor has not been named as the inventor or a joint inventor on more than four other nonprovisional patent applications in which a petition to make special under this pilot program has been filed. In other words, the inventor or any joint inventor named on the application can only be named as the inventor or a joint inventor on a maximum of five nonprovisional applications in which a petition under the pilot program has been filed. Therefore, if the inventor or any one of the joint inventors of the instant application has been named as the inventor or a joint inventor on more than four other nonprovisional applications in which petitions under this pilot program have been filed, then the petition for the instant application may not be appropriately filed.

Part II. Internal Processing of the Petition Under the Pilot Program

If the applicant files a petition to make special under the pilot program, the USPTO will not render a decision on the petition until the application has completed pre-examination processing. Any inquiries concerning a particular petition to make special should be directed to the appropriate Technology Center handling the petition. If the petition is granted, the application will be accorded special status under the pilot program. The application will be placed on an examiner's special docket until a first Office action is issued. After the first Office action, the application will no longer be treated as special during examination. For example, if an amendment is filed in response to a first Office action, it will be placed on the examiner's regular amended docket.

If the petition to make special under the pilot program does not comply with the requirements set forth in this notice, the USPTO may notify the applicant of the deficiency by issuing a notice. The notice will give the applicant only *one opportunity* to correct the deficiency. If the applicant still wishes to participate in the pilot program, the applicant must file a reply via Patent Center that includes appropriate corrections and a properly signed petition form PTO/SB/467 within one month or 30 days, whichever is longer, from the mail/notification date of the notice informing the applicant of the deficiency. The time period for reply is *not* extendable under 37 CFR 1.136(a). If the applicant fails to correct the deficiency indicated in the notice within the time period set, the application will not be accepted into the pilot program and will be taken up for examination in accordance with standard examination procedures.

In addition, the petition will be dismissed without an opportunity for correction if any of the following deficiencies exists: (1) the application does not contain a claim that meets the technology requirement of the pilot program; (2) the process or apparatus for the manufacturing of semiconductor devices covered by the claim meeting the technology requirement is not disclosed in the specification as being primarily focused on the manufacturing of semiconductor devices; (3) the application or national stage entry was not filed electronically in Patent Center; (4) the specification, claim(s), and abstract of the application were not submitted in DOCX format at the time of filing or national stage entry; (5) the application is not an original (non-reissue), nonprovisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage under 35 U.S.C. 371; (6) the application claims the benefit of the filing date of two or more prior filed applications that are nonprovisional U.S. applications and/or international applications designating the United States; and (7) the petition was not filed with the application or national stage entry or within 30 days of the application's filing date or national stage entry date.

Part III. Requirement for Restriction or Unity of Invention

If the claims in the application are directed to multiple inventions, the examiner may make a requirement for restriction or unity of invention in accordance with current restriction practice. If such a requirement is made, the applicant must make an election to an invention that meets the technology requirement of this pilot program.

Part IV. Period for Reply by the Applicant

The time periods set for reply in Office actions for an application granted special status under the pilot program will be the same as those set forth in MPEP 710.02(b).

Part V. Replies by the Applicant Under the Pilot Program

During the remainder of prosecution of an application granted special status under the pilot program, the applicant's replies to Office actions must be fully responsive to the rejections, objections, and requirements made by the examiner. Any amendment or election filed in reply to an Office action may be treated as not fully responsive if it attempts to: (1) add claims that would result in more than three independent claims or more than 20 total claims pending in the application; (2) add any multiple dependent claim(s); (3) cancel all claims that meet the technology requirement of the pilot program; (4) elect an invention that does not meet the technology requirement of the pilot program, or (5) cancel all claims to the elected invention.

If a reply to a nonfinal Office action is not fully responsive for any of the reasons set forth above but is a genuine attempt to advance the application to final action, the examiner may, at their discretion, issue a notice of nonresponsive amendment and provide a shortened statutory period of two months for the applicant to supply a fully responsive reply. Extensions of this time period under 37 CFR 1.136(a) to the notice of nonresponsive amendment will be permitted, but in no case can any extension carry the date for reply to this notice beyond the maximum period of SIX MONTHS set by statute (35 U.S.C. 133). However, any further nonresponsive amendment typically will not be treated as genuine, and therefore, the time period set in the prior notice will continue to run.

Part VI. After-Final and Appeal Procedures

Any amendment, affidavit, or other evidence after a final Office action and prior to appeal must comply with 37 CFR 1.116. During the appeal process, the application will be treated in accordance with the normal appeal procedure (see MPEP Chapter 1200).

Part VII. Withdrawal From the Pilot Program

There is no provision for withdrawal from the pilot program. An applicant may abandon an application that has been granted special status under the pilot program in favor of a continuing application. However, a continuing application will not automatically be granted special status based on the petition filed in the parent application. Each application (including each continuing application) must, on its own merit, meet all requirements for special status under the pilot program, and be accompanied by its own petition as detailed in Part I above.

Katherine Kelly Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–26340 Filed 11–30–23; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* December 31, 2023.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7520–01–682–7166—Pen, Ballpoint, Stick, Recycled Water Bottle, Blue, Fine Point
Designated Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR 2, NEW YORK, NY

NSN(s)—Product Name(s):
6840–01–367–2914—Detergent, Disinfectant, Water Soluble, .5 oz
Designated Source of Supply: Goodwill Vision Enterprises, Rochester, NY
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s):
7530–00–NIB–0420—Jacket No. 605–913
Designated Source of Supply: CLOVERNOOK CENTER FOR THE BLIND AND VISUALLY IMPAIRED, Cincinnati, OH
Contracting Activity: Government Printing Office, Washington, DC

NSN(s)—Product Name(s):
1560–00–875–6001—Support, Structural
Designated Source of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Contracting Activity: DLA AVIATION, Richmond, VA

NSN(s)—Product Name(s):
6645–01–491–9838—Clock, Wall, Atomic, Mahogany Octagon, 12′ Diameter
6645–01–491–9839—Clock, Wall, Atomic, Mahogany Octagon, Custom Logo, 12′ Diameter
Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR 2, NEW YORK, NY

NSN(s)—Product Name(s):
3990–00–NSH–0081—Sideboard Pallet, 48′ x 48′
Designated Source of Supply: Knox County Association for Remarkable Citizens, Inc., Vincennes, IN
Contracting Activity: W39Z STK REC ACCT–CRANE AAP, CRANE, IN

NSN(s)—Product Name(s):
8970–00–NSH–0026—Meal Kit, Turkey, Detainees, DHS ICE
8970–00–NSH–0027—Meal Kit, Roast Beef, Detainees, DHS ICE
Designated Source of Supply: The Arc of Cumberland and Perry Counties, Carlisle, PA
Contracting Activity: Compliance & Removals, Washington, DC

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–26434 Filed 11–30–23; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0173]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual State Application Under Part C of the Individuals With Disabilities Act as Amended in 2004

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before January 2, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jennifer Simpson, 202–245–6348.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual State Application Under Part C of the Individuals with Disabilities Act as Amended in 2004.

OMB Control Number: 1820–0550.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 560.

Abstract: This is a request for an extension of the Annual State Application under Part C of the Individuals with Disabilities Education Act as Amended in 2004 for Federal fiscal year 2024. The Individuals with Disabilities Education Act, when signed on December 3, 2004, became Public Law 108–446. In order to be eligible for a grant under 20 U.S.C. 1433, a State must provide assurance to the Secretary that the State has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and has in effect a statewide system that meets the requirements of 20 U.S.C. 1435. Some policies, procedures, methods, and descriptions must be submitted to the Secretary.

The review type for this collection is an extension. Additional text was added to the areas of the application template and application instructions that cover Sections III.B, III. C, and III. F to make the instructions clearer and to minimize confusion as States prepare their application materials.

Dated: November 28, 2023.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–26460 Filed 11–30–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1403–068]

Yuba County Water Agency; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1403–068.

c. *Date Filed:* November 14, 2023.

d. *Applicant:* Yuba County Water Agency.

e. *Name of Project:* Narrows Hydroelectric Project.

f. *Location:* The existing project is located on the Yuba River in Nevada County, California, approximately 23 miles northeast of the City of Marysville. The project affects 0.55 acres of Federal land managed by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Willie Whittlesey, General Manager, Yuba County Water Agency, 1220 F Street, Marysville, CA 95901; Telephone (530) 741–5000 or email *WWhittlesey@yubawater.org.*

i. *FERC Contact:* Rebecca Kipp, (202) 502–8846 or *rebecca.kipp@ferc.gov.*

j. *Cooperating agencies:* Federal, State, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item1 below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 13, 2024.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Narrows Hydroelectric Project (P–1403–068).

m. This application is not ready for environmental analysis at this time.

n. *The existing Narrows Hydroelectric Project consists of the following facilities:* (1) a 1,077-foot-long gunite-lined tunnel that connects a U.S. Army Corps of Engineers tunnel to the project penstock; (2) a 266-foot-long steel penstock with a diameter varying between 7.6 and 8 feet that connects the project tunnel to the project's powerhouse and includes a 277-foot-long surge structure; (3) an 82.5-foot by 43.6-foot by 92-foot concrete powerhouse containing a 48-inch-diameter bypass pipe and a single Francis turbine with a generating capacity of 12 megawatts; and (4) a powerhouse access tram. Yuba County Water Agency is not proposing any changes to project facilities or operation.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–1403). For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

q. *Procedural schedule and final amendments:* the application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	January 2024.
Request Additional Information (if necessary)	January 2024.
Issue Scoping Document 1 for comments	March 2024.
Issue Acceptance Letter	April 2024.
Request Additional Information (if necessary)	May 2024.
Issue Scoping Document 2 (if necessary)	June 2024.
Issue Notice of Ready for Environmental Analysis	June 2024.

r. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: November 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26461 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15328–000]

SOLIA 1 Hydroelectric LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 18, 2023, SOLIA 1 Hydroelectric LLC., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower project located to be located at the U.S. Army Corps of Engineers' (Corps) A.I. Selden Lock and Dam near the City of Eutaw, Greene County, Alabama. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed A.I. Selden Hydroelectric Project would consist of the following: (1) a headrace channel and intake structure with four, 31-foot-wide, 39-foot-high trash racks with 8.3-inch bar spacing; (2) a 93-foot-long, 158-foot-wide, 83-foot-high concrete powerhouse located on the south west bank of the river at the existing Corps dam's right abutment containing four Kaplan bulb turbine-generator units with a total capacity of 22.4 megawatts; (3) four, 70-foot-long, 198-foot-wide, 73-foot-high draft tubes that would convey water from the turbines to the tailrace; (4) a 495-foot-long, 495-foot-wide riprap lined tailrace; (5) a 100-foot-long, 100-foot-wide switchyard; and (6) a 2.2-mile-long, 115 kilovolt transmission line. The proposed project would have an estimated annual generation of 145.5 megawatt-hours.

Applicant Contact: Douglas Spaulding, Nelson Energy, 1030 Tyrol Trail, Suite 101, Minneapolis, MN 55416; phone: (612) 599–8493.

FERC Contact: Michael Spencer; phone: (202) 502–6093, or by email at *michael.spencer@ferc.gov*.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15328–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *https://elibrary.ferc.gov/eLibrary/search*. Enter the docket number (P–15328) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 24, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26386 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–17–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on November 16, 2023, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000, for authorization to modify the existing Line D322 pipeline at various locations, including the installation of two bi-directional launching and receiving stations for in-line inspection devices, and abandoning approximately 8 miles of its 12-inch diameter Line D322. All of the above facilities are located in Morrow, Marion, Hardin, and Allen Counties, Ohio (Line D322 West ILI Project). The project will allow Columbia to perform installations and activities to enable bi-directional in-line inspection, or pigging, as well as abandon a section of its Line D322. The estimated cost for the project is 28.7 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions concerning this request should be directed to David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, at (832) 320–5477 or *david_alonzo@tcenergy.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on January 26, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is January 26, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is January 26, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before January 26, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–17–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–17–000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, at (832) 320–5477, or by *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: November 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26462 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–38–000.

Applicants: River Fork Solar, LLC.

Description: River Fork Solar, LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.

Filed Date: 11/27/23.

Accession Number: 20231127–5124.

Comment Date: 5 p.m. ET 12/18/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–2388–004.

Applicants: Mississippi Power Company.

Description: Compliance filing: MRA 30 Compliance Filing Associated with Rate Case Settlement to be effective 9/14/2022.

Filed Date: 11/27/23.

Accession Number: 20231127–5087.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER23–1775–001.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Compliance filing: Alabama Power Company submits tariff filing per 35: OATT Attachment O Order No. 676–J Second Compliance Filing to be effective 2/1/2024.

Filed Date: 11/27/23.

Accession Number: 20231127–5098.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER23–1789–000; ER23–1791–000; ER23–1792–000; ER23–1793–000; ER23–1795–000; ER23–1797–000; ER23–1798–000; ER23–1799–000; ER23–1800–000; ER23–1790–000; ER23–1796–000; ER23–1794–000.

Applicants: Goal Line, L.P., Marina Energy, LLC, EnergyMark, LLC, Twiggs County Solar, LLC, Three Peaks Power, LLC, Sweetwater Solar, LLC, MS Solar 3, LLC, Grand View PV Solar Two LLC, GA Solar 3, LLC, FL Solar 4, LLC, FL Solar 1, LLC, AZ Solar 1, LLC.

Description: Supplement to May 1, 2023, AZ Solar 1, LLC submits tariff filing per 35: Tariff Revisions to be effective 5/2/2023.

Filed Date: 11/20/23.

Accession Number: 20231120–5225.

Comment Date: 5 p.m. ET 12/11/23.

Docket Numbers: ER24–477–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection L.L.C submits a Limited, Prospective Waiver of one Provision of Schedule 6, section 1.5.7(f) of the Operating Agreement with Expedited Action.

Filed Date: 11/21/23.

Accession Number: 20231121–5233.

Comment Date: 5 p.m. ET 12/1/23.

Docket Numbers: ER24–479–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6799; Queue No. AD1–013 to be effective 1/29/2024.

Filed Date: 11/27/23.

Accession Number: 20231127–5016.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–480–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Minkar Energy Project (Minkar Solar) LGIA Filing to be effective 11/10/2023.

Filed Date: 11/27/23.

Accession Number: 20231127–5096.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–481–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to Service Agreements re: FirstEnergy Reorganization to be effective 12/31/9998.

Filed Date: 11/27/23.

Accession Number: 20231127–5097.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–482–000.

Applicants: River Fork Solar, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 1/27/2024.

Filed Date: 11/27/23.

Accession Number: 20231127–5106.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–483–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF–FMPA NITSA SA No. 148 to be effective 1/1/2024.

Filed Date: 11/27/23.

Accession Number: 20231127–5109.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–484–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Revisions to Modify the FCM Qualification Rules for DECR to be effective 3/1/2024.

Filed Date: 11/27/23.

Accession Number: 20231127–5127.

Comment Date: 5 p.m. ET 12/18/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26465 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–194–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Alabama Georgia Connector Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Alabama Georgia Connector Project, proposed by Transcontinental Gas Pipe Line Company, LLC (Transco) in the above-referenced docket. Transco requests authorization from the Commission to provide customers with firm access to 63,800 dekatherms per day of incremental natural gas supply, increase overall system reliability, and add natural gas infrastructure to meet growing demand in Georgia. To accomplish this, Transco would construct and operate various modifications at five existing compressor stations in Marengo and Randolph Counties, Alabama, and Coweta, Henry, and Walton Counties, Georgia.

The EA assesses the potential environmental effects of the construction and operation of the Alabama Georgia Connector Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The proposed Alabama Georgia Connector Projector includes the following facilities:

- re-wheel two compressors at existing Compressor Station 90 (Marengo County, Alabama);
- upgrade two natural gas-fired turbines to add 3,685 horsepower (hp) at existing Compressor Station 110 (Randolph County, Alabama);
- re-wheel three compressors at existing Compressor Station 115 (Coweta County, Georgia);
- replace a 12,000 hp electric compressor unit with a 22,500 hp electric compressor unit at existing Compressor Station 120 (Henry County, Georgia); and
- re-wheel one compressor and increase the certificated hp of a 9,000 hp electric compressor unit to 15,000 hp at existing Compressor Station 125 (Walton County, Georgia).

Transco would also modify station piping within the compressor stations listed above.

The Commission mailed a copy of the *Notice of Availability* to Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP23–194). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on December 27, 2023.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP23–194–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.*

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission

processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov.*

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: November 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26463 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–475–000.

Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: NPC—Amendments to Attachments N and P to be effective 1/21/2024.

Filed Date: 11/22/23.

Accession Number: 20231122–5171.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: ER24–476–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits confidential and public versions of its informational filing for Forward Capacity Auction 18, which is associated with the 2027–2028 Capacity Commitment Period.

Filed Date: 11/22/23.

Accession Number: 20231122–5206.

Comment Date: 5 p.m. ET 12/7/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: November 24, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26388 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–170–000.

Applicants: Viking Gas Transmission Company.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement AF0554 to be effective 12/1/2023.

Filed Date: 11/27/23.

Accession Number: 20231127–5030.

Comment Date: 5 p.m. ET 12/11/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: November 27, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26464 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–168–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Compliance filing: Annual Cash-Out Activity Report 2023 to be effective N/A.

Filed Date: 11/22/23.

Accession Number: 20231122–5100.

Comment Date: 5 p.m. ET 12/4/23.

Docket Numbers: RP24–169–000.

Applicants: Crescent Point Energy Corp., Crescent Point Resources Partnership.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Crescent Point Energy Corp., et al.

Filed Date: 11/22/23.

Accession Number: 20231122–5218.

Comment Date: 5 p.m. ET 12/4/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the

specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: November 24, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26385 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–471–000]

Indra Power Business OH LLC, Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Indra Power Business OH LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 14, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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Dated: November 24, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–26387 Filed 11–30–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R06–OW–2023–0566; FRL–11561–01–R6]

Notice of Availability of Initial Revised Designation of Certain Stormwater Discharges in the State of New Mexico Under the National Pollutant Discharge Elimination System of the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is providing notice of an initial revised designation determination that storm water discharges from the Los Alamos Urban Area (as defined by the latest decennial Census) and Los Alamos National Laboratory (LANL) property in Los Alamos County and Santa Fe County, New Mexico are contributing to violations of New Mexico water quality standards (WQS) and require National Pollutant Discharge Elimination System (NPDES) permit coverage under the Clean Water Act (CWA). This action is in response to a June 30, 2014, petition filed with EPA by Amigos Bravos entitled ''A Petition by Amigos Bravos for a Determination that Storm Water Discharges in Los Alamos County Contribute to Water Quality Standards Violations and Require a Clean Water Act Permit,'' and revises the Agency's prior December 16, 2019, designation decision, which was remanded to EPA for reconsideration by the Tenth Circuit Court of Appeals.

DATES: Comments must be received on or before February 29, 2024. The ''Initial Revised Designation Decision and Record of Initial Decision in Response to A Petition by Amigos Bravos for a Determination that Stormwater Discharges in Los Alamos County Contribute to Water Quality Standards Violations and Require Clean Water Act Permit Coverage'' was signed on November 6, 2023. The EPA will hold an informal virtual public meeting in January 2024, at least two weeks before the end of the public comment period. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: You may send comments on the Initial Designation Determination, identified by Docket ID No. EPA–R06–OW–2023–0566, by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the EPA–R06–OW–2023–0566 for this Initial Designation Determination. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the Initial Designation Determination, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For further information contact Ms. Evelyn Rosborough via email: *rosborough.evelyn@epa.gov,* or may be mailed to Ms. Evelyn Rosborough, Environmental Protection Agency, Region 6, Water Division (6WQ–NP), 1201 Elm Street, Suite 500, Dallas, TX 75270.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your comments as detailed in the **ADDRESSES** section. Do not submit to EPA any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system).

B. Participation in Virtual Public Meeting

More information on how to participate in the informal virtual public meeting planned for January 2024 will be available soon via the New Mexico section of the Public Notices at U.S. EPA web page at *https://www.epa.gov/publicnotices.* Public comments will not be accepted during the public meeting, but the date of the meeting will provide at least two weeks after the meeting to submit written comments prior to the end of the public comment period.

II. General Information

A. Does this action apply to me?

Small MS4s operated by the County of Los Alamos, Los Alamos National Laboratory, including Triad National Security, LLC and the U.S. Department of Energy's National Nuclear Security Administration, and the New Mexico Department of Transportation would potentially be regulated as a result of this action. To determine whether your entity is affected by this action, you should also review the description of EPA's action in Section II.B of this notice and the Initial Designation Determination document available in Docket ID No. EPA–R06–OW–2023–0566 at the Federal eRulemaking Portal: *https://www.regulations.gov/* or online via the Public Notice web page for New Mexico at: *https://www.epa.gov/publicnotices.* If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. Summary and Availability of Designation Documents

The Regional Administrator of EPA Region 6 has made an initial designation of stormwater discharges from certain MS4s for regulation under the NPDES permitting program pursuant to Section 402(p)(2)(E) and (6) of the CWA and EPA's implementing regulations at 40 CFR 122.26(a)(9)(i)(C)–(D). Those provisions authorize the Agency to regulate stormwater discharges that contribute to a WQS violation or that are a significant contributor of pollutants to waters of the United States, or where controls are needed based on wasteload allocations that are part of total maximum daily loads. This authority is often referred to as ''residual designation authority'' or RDA. EPA is providing notice of its revised initial designation that storm water discharges from the Los Alamos Urban Area (as defined by the latest decennial Census) and LANL property in Los Alamos County and Santa Fe County, New Mexico are contributing to violations of New Mexico WQS and require NPDES permit coverage under the CWA.

This proposed initial designation revises EPA's prior December 16, 2019, decision designating stormwater discharges from small MS4s operated by the County of Los Alamos, LANL, and the New Mexico Department of Transportation for NPDES permitting. The County of Los Alamos filed a petition for review of EPA's 2019 designation with the U.S. Court of Appeals for the Tenth Circuit. Following the filing of the petition for review, EPA filed a motion for voluntary remand to reconsider its response to the Petition considering the Supreme Court's intervening decision in *County of Maui* v. *Hawaii Wildlife Fund,* 140 S. Ct. 1462 (2020) (*Maui*) and based on other relevant factors. On January 21, 2022, the Court granted EPA's motion, remanding the matter to EPA ''for the limited purpose of reconsidering the EPA's decision that is the subject of this petition for review. Specifically, the EPA should reconsider its decision in light of the Supreme Court's decision in *County of Maui* v. *Hawaii Wildlife Fund,* 140 S. Ct. 1462 (2020). The EPA may conduct any and all proceedings it deems necessary and appropriate to reconsider the decision at issue in this case.'' Order, United States Court of Appeals, Tenth Circuit, January 21, 2022, Case #20–9534, at 2. In addition to considering the Supreme Court's decision in *Maui,* EPA has also considered the facts at issue in this matter considering the recent Supreme Court decision in *Sackett* v. *EPA,* 598 U.S. 651, 143 S. Ct. 1322 (2023). EPA has carefully considered all record information, including stormwater discharge data collected by NMED, LANL, and the Buckman Direct Diversion, NMED's water quality assessments and lists of impaired waters and any supplemental information submitted by LANL or the County regarding EPA's previous 2019 designation decision, as well as the public comments submitted on that decision. EPA also conducted a site visit in September 2022 to examine first-hand the effects of the discharges and waters at issue. EPA is hereby proposing its initial determination for public comment. EPA is soliciting public comment and may revise its findings based on public input.

Upon reconsideration of the Petition on remand, EPA has initially determined that stormwater discharges from small MS4s located in the Los Alamos Urban Area as defined by the latest decennial Census and MS4s located on LANL property within Los Alamos and Santa Fe Counties, New Mexico require NPDES permit coverage because the discharges are contributing to violations of NM WQS in waters of the United States. The initial designation plus supplementary information relating to it are available on the EPA Public Notice web page at: *https://www.epa.gov/publicnotices.* Please refer to that website to review these materials and then follow the directions above in this Notice for submitting any comments.

Dated: November 27, 2023.

Dzung Kim Ngo Kidd,

Acting Director, Water Division, Region 6.

[FR Doc. 2023–26437 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11578–01–R3]

Delegation of Authority to the Commonwealth of Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On October 24, 2023, the Environmental Protection Agency (EPA) sent the Commonwealth of Virginia (Virginia) a letter acknowledging that Virginia's delegation of authority to implement and enforce the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public, EPA is making available a copy of EPA's letter to Virginia through this notice.

DATES: On October 24, 2023, EPA sent Virginia a letter acknowledging that Virginia's delegation of authority to implement and enforce certain Federal NSPS and NESHAPs had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2029. Copies of Virginia's submittal are also available at the Virginia Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339, or Mr. He can also be reached via electronic mail at *He.Yongtian@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 16, 2023, Virginia notified EPA that Virginia had updated its incorporation by reference of Federal NSPS, NESHAP, and Maximum Available Control Technology (MACT) standards to include many such standards, as they were published in final form in the Code of Federal Regulations (CFR) dated July 1, 2022. On October 24, 2023, EPA sent Virginia a letter acknowledging that Virginia now has the authority to implement and enforce the NSPS, NESHAP, and MACT standards as specified by Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports, and other correspondence required pursuant to the delegated NSPS, NESHAP, and MACT must be submitted to both EPA, Region III and to the Virginia Department of Environmental Quality, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the Virginia Department of Environmental Quality. A copy of EPA's letter to Virginia follows:

''Michael G. Dowd, Director
Air Division
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Dear Mr. Dowd:

The United States Environmental Protection Agency (EPA) has previously delegated to the Commonwealth of Virginia (Virginia) the authority to implement and enforce various federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and National Emission Standards for Hazardous Air Pollutants for Source Categories (MACT standards) which are found at 40 CFR parts 60, 61 and 63, respectively. In those actions, EPA also delegated to Virginia the authority to implement and enforce any future federal NSPS, NESHAP or MACT Standards on the condition that Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated March 16, 2023, Virginia submitted to EPA revised versions of Virginia's regulations which incorporate by reference specified federal NSPS, NESHAP and MACT standards, as those federal standards had been published in final form in the Code of Federal Regulations dated July 1, 2022. Virginia committed to enforcing the federal standards in conformance with the terms of EPA's previous delegations of authority and made only allowed wording changes.

Virginia stated that it had submitted the revisions ''to retain its authority to enforce the NSPSs and NESHAPs under the delegation of authority granted by EPA on August 27, 1981 (46 FR 43300) and to enforce the MACT standards under the delegation of authority granted by EPA on January 26, 1999 (64 FR 3938) and January 8, 2002 (67 FR 825).''

Virginia provided copies of its revised regulations which specify the NSPS, NESHAP and MACT Standards which it had adopted by reference. Virginia's revised regulations are entitled 9 VAC 5–50 ''New and Modified Stationary Sources,'' and 9 VAC 5–60 ''Hazardous Air Pollutant Sources.'' These revised regulations have an effective date of March 15, 2023.

Based on Virginia's submittal, EPA acknowledges that EPA's delegations to Virginia of the authority to implement and enforce EPA's NSPS, NESHAP, and MACT standards have been updated, as provided for under the terms of EPA's previous delegation of authority actions, to allow Virginia to implement and enforce the federal NSPS, NESHAP and MACT standards which Virginia has adopted by reference as specified in Virginia's revised regulations 9 VAC 5–50 and 9 VAC 5–60, both effective on March 15, 2023.

EPA appreciates Virginia's continuing NSPS, NESHAP and MACT standards enforcement efforts, and also Virginia's decision to take automatic delegation of additional or updated NSPS, NESHAP and MACT standards by adopting them by reference.

Sincerely,
Cristina Fernandez, Director
Air and Radiation Division''

This notice acknowledges the update of Virginia's delegation of authority to implement and enforce NSPS, NESHAP, and MACT standards.

Cristina Fernandez,

Director, Air and Radiation Division, Region III.

[FR Doc. 2023–26440 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–098]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed November 17, 2023 10 a.m. EST Through November 27, 2023 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search*.

EIS No. 20230164, Final, FAA, ID, Adoption—Airspace Optimization for Readiness for Mountain Home Air Force Base, *Contact:* Lonnie Covalt 206–231–3998.

The Federal Aviation Administration (FAA) has adopted the United States Air Force's Final EIS No. 20230035 filed 02/22/2023 with the Environmental Protection Agency. The FAA was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230165, Draft, USFS, WY, Dell Creek and Forest Park Elk Feedgrounds: Long-Term Special Use Permits, *Comment Period Ends:* 01/16/2024, *Contact:* Randall Griebel 307–739–5537.

EIS No. 20230166, Draft, NRCS, ND, Cart Creek Site 1 of the North Branch Park River Watershed Plan, *Comment Period Ends:* 01/26/2024, *Contact:* Christi Fisher 701–530–2091.

EIS No. 20230167, Final Supplement, USFS, NAT, Nationwide Aerial Application of Fire Retardant on National Forest System Lands, *Review Period Ends:* 01/02/2024, *Contact:* Laura Conway 406–802–4317.

Dated: November 27, 2023.

Julie Smith,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–26426 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11577–01–R3]

Delegation of Authority to the State of West Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On October 24, 2023, the Environmental Protection Agency (EPA) sent the State of West Virginia (West Virginia) a letter acknowledging that West Virginia's delegation of authority to implement and enforce the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public, EPA is making available a copy of EPA's letter to West Virginia through this notice.

DATES: On October 24, 2023, EPA sent West Virginia a letter acknowledging that West Virginia's delegation of authority to implement and enforce Federal NESHAP and NSPS had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103. Copies of West Virginia's submittal are also available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339. Mr. He can also be reached via electronic mail at *He.Yongtian@epa.gov.*

SUPPLEMENTARY INFORMATION: On May 1, 2023, West Virginia notified EPA that West Virginia had updated its incorporation by reference of Federal NESHAP and NSPS to include many such standards as found in title 40 of the Code of Federal Regulations (CFR), parts 60, 61, and 63 as of June 1, 2021. On October 24, 2023, EPA sent West Virginia a letter acknowledging that effective June 1, 2023, West Virginia has the authority to implement and enforce the NESHAP and NSPS as specified by West Virginia in its notices to EPA, as provided for under previously approved automatic delegation mechanisms (49 FR 48692, December 14, 1984, and 67 FR 15486, April 2, 2002, EPA delegation letters dated March 19, 2001 and January 8, 2002). All notifications, applications, reports, and other correspondence required pursuant to the delegated NESHAP and NSPS must be submitted to both EPA Region III and to the West Virginia Department of Environmental Protection, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the West Virginia Department of Environmental Protection. A copy of EPA's October 24, 2023 letter to West Virginia follows:

''Ms. Laura M. Crowder, Director
Division of Air Quality
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, West Virginia 25304
Via email at *laura.m.crowder@wv.gov*

Dear Ms. Crowder:

This letter acknowledges your letter dated May 1, 2023 in which the West Virginia Department of Environmental Protection (WVDEP) Division of Air Quality (DAQ) informed the United States Environmental Protection Agency (EPA) that West Virginia had updated its incorporation by reference of federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) to include many such standards as found in 40 CFR parts 60, 61, and 63 as of June 1, 2022. WVDEP DAQ noted in the letter that it understood it was automatically delegated the authority to implement these standards. WVDEP DAQ stated its intent to enforce the standards in conformance with the terms of EPA's previous delegations of authority pursuant to the EPA final rules published at 49 FR 48692 and 67 FR 15486, and EPA delegation letters.

In two rulemakings, 49 FR 48692 (December 14, 1984) and 67 FR 15486 (April 2, 2002), EPA established the basis for delegation to West Virginia of specified federal standards at 40 CFR parts 60, 61, and 63. Subsequently, in a letter dated March 19, 2001 to WVDEP Director Michael Callaghan, EPA delegated to the State of West Virginia the authority to implement and enforce various federal NESHAP found in 40 CFR part 63. In another letter to Director Callaghan dated January 8, 2002, EPA delegated to the State of West Virginia the authority to implement and enforce various federal NESHAP found in 40 CFR part 61 and NSPS found in 40 CFR part 60. In those letters, EPA also established that future part 60, part 61, and part 63 standards would be automatically delegated to West Virginia subject to the conditions set forth in those letters. Those rulemakings and letters continue to control the conditions of delegation of future standards and their terms should be consulted for the specific conditions that apply to each regulatory program. However, in general terms, for automatic delegation to take effect, the letters establish conditions that can be paraphrased as requiring: legal adoption of the standards; restrictions on the kinds of wording changes West Virginia may make to the federal standards when adopting them; and specific notification from West Virginia to EPA when a standard has been adopted.

WVDEP DAQ provided copies of the revised West Virginia Legislative Rules which specify the NESHAP and NSPS regulations West Virginia has adopted by reference. These revised Legislative Rules are entitled 45 CSR 34—''Emission Standards for Hazardous Air Pollutants,'' and 45 CSR 16—''Standards of Performance for New Stationary Sources.'' These revised Rules have an effective date of June 1, 2023. EPA has reviewed the revised rules and determined that they meet the conditions for automatic delegation as established by EPA in its prior letters and rulemakings.

Accordingly, EPA acknowledges that West Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP and NSPS standards which West Virginia adopted by reference in West Virginia's revised Legislative Rules 45 CSR 34 and 45 CSR 16, effective on June 1, 2023.

If you have any questions, please contact me or Ms. Mary Cate Opila, Chief, Permits Branch, at 215–814–2041.

Sincerely,

Cristina Fernández, Director
Air and Radiation Division''

Enclosures

cc: Renu Chakrabarty (via email at *renu.m.chakrabarty@wv.gov*)
Mike Egnor (via email at *michael.egnor@wv.gov*)

This notice acknowledges the updates of West Virginia's delegation of authority to implement and enforce NESHAP and NSPS.

Cristina Fernández,

Director, Air and Radiation Division, Region III.

[FR Doc. 2023–26439 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0061; FRL–10581–14–OCSPP]

Significant New Use Notices (SN–23–0002 Through 0006 and SN–23–0008 Through 0011); Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the extension of the review periods for significant new use notices (SNUNs) identified as SN–23–0002 through 0006 and SN–23–0008 through 0011 submitted to the Environmental Protection Agency (EPA) under the Toxic Substances Control Act (TSCA). EPA has determined that an extension of the statutory 90-day review periods for these SNUNs is necessary to allow the Agency to complete the required analysis under TSCA, investigate potential risk, examine regulatory options, and prepare the necessary documents should the Agency determine that further regulatory action is required.

DATES: The review periods are extended to February 28, 2024.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Alwood, Acting Chief, Risk Management Branch 1, New Chemicals Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the chemical manufacturing company that submitted the SNUNs. This action may also be of interest to persons concerned about health, environmental, and/or economic aspects of the significant new uses of the chemical substances. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I access the docket?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0061, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

C. What is EPA's authority for this action?

TSCA section 5(c), 15 U.S.C. 2604(c), and 40 CFR 720.75(c) authorize EPA to extend, for good cause, the 90-day SNUN review period for additional periods of time not to exceed in the aggregate 90 days. Examples of circumstances in which EPA may find good cause to extend the review period include, but are not limited to, EPA's request for additional information relating to a notice during the notice review period, EPA's receipt of additional information relating to a notice during the notice review period, and EPA's determination that there is a significant possibility that a significant new use of a chemical will be regulated under TSCA sections 5(e) or 5(f) and additional time is required for EPA to initiate the appropriate regulatory action.

D. What action is the Agency taking?

For the SNUNs identified in Unit II., EPA finds that there is good cause to extend the SNUN review periods. Based on the Agency's analysis to date, EPA has determined that extensions of the SNUN review periods are necessary to further investigate potential risk, examine regulatory options, and prepare the necessary documents, should regulatory action be required for the significant new uses of the chemical substances. Specifically, EPA received additional information and amendments to all nine of the notices during the review periods which required additional time for EPA to review and include in the assessment in order to determine and initiate the appropriate regulatory action.

II. What notices are subject to this extension?

On December 30, 2022, EPA received SNUNs SN–23–0002 through 0006 and SN–23–0008 through 0011 for significant new uses of the following existing chemical substances:

- Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CASRN 335–67–1, SN–23–0002),
- Dodecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-tricosafluoro- (CASRN 307–55–1, SN–23–0003),
- Nonanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-heptadecafluoro- (CASRN 375–95–1, SN–23–0004),
- Decanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-nonadecafluoro- (CASRN 335–76–2, SN–23–0005),
- Undecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-heneicosafluoro- (CASRN 2058–94–8, SN–23–0006),
- Tetradecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-heptacosafluoro- (CASRN 376–06–7, SN–23–0008),
- Tridecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,13-pentacosafluoro- (CASRN 72629–94–8, SN–23–0009),
- Hexadecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-hentriacontafluoro- (CASRN 67905–19–5, SN–23–0010), and
- Octadecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,17,17,18,18,18-pentatriacontafluoro- (CASRN 16517–11–6, SN–23–0011).

The submitter claimed specific use information, process information, and other information to be CBI.

The notice of receipt for these SNUNs published in the **Federal Register** of February 17, 2023 (88 FR 10320) (FRL–10581–01–OCSPP). The SNUN review periods that were voluntarily suspended by the SNUN submitter with EPA's agreement would have expired on November 30, 2023. With this notice, the review periods are being extended to February 28, 2024.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: November 28, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2023–26534 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2022–0223; FRL–11548–01–OCSPP]

Chlorpyrifos; Amendment to Existing Stocks Provisions of Chlorpyrifos Cancellation Order for Certain Chlorpyrifos Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 31, 2022, EPA announced its final cancellation order for 16 chlorpyrifos products, voluntarily requested by the registrants and accepted by the Agency, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This notice amends the existing stocks terms of that cancellation order with respect to one product Liberty Chlorpyrifos 4E registered by Liberty Crop Protection, LLC, and its supplemental distributor product, Vesper, registered by Innvictis Crop Care, LLC (Innvictis).

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPP–2022–0223, is available online at *https://www.regulations.gov.* Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Patricia Biggio, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0700; email address: *OPPChlorpyrifosInquiries@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

II. What action is the Agency taking?

On August 31, 2022, EPA issued an order cancelling several chlorpyrifos products, including Liberty Chlorpyrifos 4E (EPA Reg. No. 89168–24). *See* 87 FR 53471 (August 31, 2022) (FRL–10138–01–OCSPP). The provisions for disposition of existing stocks laid out in Unit IV of that cancellation order prohibited all sale, distribution, and use of the cancelled chlorpyrifos products, ''except for export consistent with FIFRA section 17, *7 U.S.C. 136o* or for proper disposal.'' These terms also apply to Vesper (EPA Reg. No. 89168–24–89391), which is a supplemental distributor product of Liberty Chlorpyrifos 4E. *See* 40 CFR 152.132(e).

Since that time, Adama has developed a return program agreement with EPA that facilitates the return of certain chlorpyrifos products to Adama. *See* Cancellation Order for Certain Chlorpyrifos Uses and Registrations, 88 FR 28541 (May 4, 2023) (FRL–10924–01–OCSPP). Adama has requested that EPA allow them to accept returns of existing stocks of Liberty Chlorpyrifos 4E (EPA Reg. No. 89168–24) and its supplemental distributor product, Vesper (EPA Reg. No. 89168–24–89391). To allow for the legal and orderly disposition of those products, EPA is amending the August 31, 2022 cancellation order to allow distribution of Liberty Chlorpyrifos 4E (EPA Reg. No. 89168–24), including its supplemental distributor product Vesper (EPA Reg. No. 89168–24–89391), consistent with the terms of Adama's revised return program agreement.

III. Provisions for Disposition of Existing Stocks and Returning Products to Adama

Adama previously requested, and EPA approved, the return of existing stocks of its own registrations that are in the hands of end users and distributors. At this time, the Agency is also allowing Adama to accept existing stocks of Liberty Chlorpyrifos 4E (EPA Reg. No. 89168–24) and Vesper (EPA Reg. No. 89168–24–89391). Existing stocks are those stocks of registered pesticide products that were (and still are) in the United States and packaged, labeled, and released for shipment prior to August 31, 2022.

The Liberty Chlorpyrifos 4E product and the Vesper product are only registered for use on food crops; therefore, use of existing stocks continue to be prohibited. Moreover, because sale and distribution of chlorpyrifos products for use on food and feed is inconsistent with the purposes of FIFRA, all sale and distribution of the Liberty Chlorpyrifos 4E product and the Vesper product discussed herein is prohibited, except for export consistent with FIFRA section 17 (7 U.S.C. 136o); proper disposal; or distribution consistent with the terms of the individual return program agreement EPA has approved for Adama. Adama's revised return program agreement was approved by the Agency on October 31, 2023. Adama was notified of the approval of their return program agreements on October 31, 2023.

Additional information regarding the revised chlorpyrifos return programs for Adama may be found in *https://www.regulations.gov/docket/EPA-HQ-OPP-2021-0523* and/or *https://www.regulations.gov/docket/EPA-HQ-OPP-2022-0223* or by contacting the registrants at Liberty and Innvictis (208) 296–1503 and Adama (866) 406–6262; *ordergroup@adama.com.*

Dated: November 8, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–26438 Filed 11–30–23; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, December 14, 2023.

PLACE: You may observe this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov*, select ''Newsroom,'' then select ''Events.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

- Approval of Minutes for November 9, 2023
- Quarterly Report on Economic Conditions and Farm Credit System Condition and Performance
- Semiannual Report on Office of Examination Operations

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2023–26530 Filed 11–29–23; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 23–12]

Notice of Filing of Complaint and Assignment; 20230930–DK–Butterfly–1, Inc., Complainant v. MSC Mediterranean Shipping Company SA, Respondent

Served: November 28, 2023.

Notice is given that a complaint has been filed with the Federal Maritime Commission (the ''Commission'') by 20230930–DK–Butterfly–1, Inc. (the ''Complainant'') against MSC Mediterranean Shipping Company SA (the ''Respondent''). Complainant states that the Commission has subject matter jurisdiction over the complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.,* and has personal jurisdiction over Respondent as an ''ocean common carrier'' that has entered into a ''service contract'', as these terms are defined in the Shipping Act at 46 U.S.C. 40102.

Complainant is a corporation existing under the laws of New York with a mailing address in Union, New Jersey. Prior to filing a change of name certificate to its present name, the Complainant's corporate name was Bed Bath & Beyond Inc. For the purposes of the allegations of the complaint, the Complainant was a ''shipper'' as this term is defined by 46 U.S.C. 40102(23). Complainant identifies Respondent MSC Mediterranean Shipping Company SA as a company existing under the laws of Switzerland with a principal place of business located in Geneva, Switzerland and as a vessel-operating ''ocean common carrier'' as this term is defined by 46 U.S.C. 40102(18).

Complainant alleges that Respondent violated 46 U.S.C. 41102(c), 41102(d), 41104(a)(2), 41104(a)(10) and 46 CFR 545.5 regarding a failure to establish, observe, and enforce just and reasonable practices relating to receiving, handling, storing, and delivering property; a failure to provide service in the liner trade that is in accordance with a service contract; an unreasonable refusal to deal or negotiate; and retaliation against a shipper. Complainant alleges these violations arose from a condition on performance requiring the payment of extracontractual prices and surcharges, such as peak season surcharges, and amendments or premium rate addenda to service contracts prior to full performance of its service commitments; a failure to allocate space as agreed upon and instead, allocating space to shippers willing to pay higher freight prices; an unreasonable assessment of demurrage and detention charges during periods of congestion and shortages of equipment at ports; and a refusal to accommodate requests for a full or partial refund of demurrage and detention charges.

An answer to the complaint must be filed with the Commission within 25 days after the date of service.

The full text of the complaint can be found in the Commission's electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/23-12/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by November 27, 2024, and the final decision of the Commission shall be issued by June 11, 2025.

Alanna Beck,

Federal Register Alternate Liaison Officer, Federal Maritime Commission.

[FR Doc. 2023–26472 Filed 11–30–23; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 2, 2024.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Lincoln County Bancorp, Inc., Troy, Missouri;* to acquire 28 percent of the voting shares of Kahoka State Bank, Kahoka, Missouri.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–26478 Filed 11–30–23; 8:45 am]

BILLING CODE 6210–01–P

UNITED STATES AGENCY FOR GLOBAL MEDIA

USAGM Performance Review Board Members

AGENCY: United States Agency for Global Media.

ACTION: Notice.

SUMMARY: The United States Agency for Global Media (USAGM) announces the members of its SES Performance Review Board (PRB).

ADDRESSES: USAGM Office of Human Resources, 330 Independence Ave. SW, Washington, DC 20237.

FOR FURTHER INFORMATION CONTACT: Ellona Fritschie, Senior Advisor, at *efritschie@usagm.gov* or (202) 920–2400.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314, USAGM publishes this notice announcing the individuals who will serve as members of the PRB for a term of one year. The PRB is responsible for: (1) reviewing performance appraisals and ratings of

Senior Executive Service and Senior Level members; and (2) making recommendations on other performance management issues, such as pay adjustments, bonuses, and Presidential Rank Awards. The names, position titles, and appointment types of each member of the PRB are set forth below:

1. Sylvia Rosabal, Director, Office of Cuba Broadcasting, Non-Career SES
2. Grant Turner, Chief Financial Officer, Career SES
3. David Kotz, Chief Management Officer, Career SES

Dated: November 27, 2023.

Armanda Matthews,

Program Support Specialist, U.S. Agency for Global Media.

[FR Doc. 2023–26476 Filed 11–30–23; 8:45 am]

BILLING CODE 8610–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Readiness and Response; (Formerly Known as the Board of Scientific Counselors, Center for Preparedness and Response); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the renewal of the charter of the Board of Scientific Counselors, Office of Readiness and Response (BSC, ORR); (formerly known as the Board of Scientific Counselors, Center for Preparedness and Response (BSC, CPR)).

FOR FURTHER INFORMATION CONTACT: Ian Williams, Ph.D., M.S., Designated Federal Officer, Board of Scientific Counselors, Office of Readiness and Response, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop H21–5, Atlanta, Georgia 30329–4027. Telephone: (404) 639–2210; Email: *IWilliams@cdc.gov.*

SUPPLEMENTARY INFORMATION: CDC is providing notice under 5 U.S.C. 1001–1014 of the renewal of the charter of the Board of Scientific Counselors, Office of Readiness and Response (formerly known as the Board of Scientific Counselors, Center for Preparedness and Response), Centers for Disease Control and Prevention, Department of Health and Human Services. This charter has been renewed for a two-year period through November 5, 2025.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–26420 Filed 11–30–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2022–0116]

CDC Recommendations for Hepatitis C Testing Among Perinatally Exposed Infants and Children—United States, 2023

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the availability of the final *CDC Recommendations for Hepatitis C Testing Among Perinatally Exposed Infants and Children—United States, 2023.*

DATES: The final document was published as an MMWR Reports & Recommendations on November 3, 2023.

ADDRESSES: The document may be found in the docket at *www.regulations.gov,* Docket No. CDC–2022–0116 and at *https://www.cdc.gov/mmwr/volumes/72/rr/rr7204a1.htm?s_cid=rr7204a1_w.*

FOR FURTHER INFORMATION CONTACT: Lakshmi Panagiotakopoulos, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop U12–3, Atlanta, GA 30329. Telephone: 404–639–8000; Email: *DVHpolicy@cdc.gov.*

SUPPLEMENTARY INFORMATION: In 2021, CDC determined that *Recommendations for Hepatitis C Testing Among Perinatally Exposed Infants and Children—United States, 2023* constituted influential scientific information (ISI) that will have a clear and substantial impact on important public policies and private sector decisions. As such, the recommendations underwent peer review as required by Part II Section D of the HHS Information Quality Guidelines (*https://aspe.hhs.gov/hhs-guidelines-ensuring-maximizing-disseminated-information*). HHS developed these guidelines in accordance with the OMB issued Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of lnformation Disseminated by Federal Agencies, 67 FR 8452 (Feb. 22, 2002) and the Information Quality Act Public Law 106–554, 515(a) (2000). CDC elected to use specialists in the field who were not involved in the development of the recommendations. CDC solicited nominations for reviewers from the American Academy of Family Physicians, American Academy of Pediatrics, American Association for the Study of Liver Diseases, American College of Obstetricians and Gynecologists, and the North American Society for Pediatric Gastroenterology, Hepatology & Nutrition. Six clinicians with expertise in hepatology, gastroenterology, internal medicine, infectious diseases, and/or pediatrics provided structured peer reviews. Specifically, CDC asked reviewers to focus their reviews on the following criteria:

- Methodology (studies included in the evidence review, methods used to assess the evidence, clarity of evidence findings, identification of limitations or uncertainties)
- Recommendations (reviewer agreement with CDC's conclusions, suggestions for clarifying recommendations)
- Potential impact and implementation (whether implementing recommendations would improve health outcomes, any resources or tools that would facilitate implementation)
- Other comments for CDC consideration

A list of peer reviewers and CDC's responses to peer review comments are available at CDC's Viral Hepatitis Influential Scientific Information web page at *https://www.cdc.gov/hepatitis/policy/isireview/index.htm.*

In addition, on November 22, 2022, CDC published a notice in the **Federal Register** (87 FR 71330) to obtain public

comment on the draft recommendations for hepatitis B screening and testing. The comment period closed on January 27, 2023. CDC received 22 comments pertaining to the draft recommendations document. Public comments were received from the general public, health care providers, advocacy groups, industry, medical professional associations, thinktanks and a public health department.

Twelve of the comments expressed full support for the recommendations. Two comments were critical of the approach and recommended keeping the current recommendation of HCV antibody testing at age ≥18 months. CDC also received comments about: testing infants and children when maternal HCV status is unknown; follow up after receiving test results; testing siblings of perinatally infected infants; stigma and harms of HCV testing; suggested scientific content and implementation guidance; and editorial comments. CDC addressed these comments by correcting, clarifying, or updating content in the final recommendations. A summary of public comments and CDC's response can be found in the Documents tab of the docket, as well as CDC Stacks at *https://stacks.cdc.gov/view/cdc/134020.*

Tiffany Brown,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2023–26422 Filed 11–30–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–24BG; Docket No. CDC–2023–0095]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Center for Chronic Disease Prevention and Health Promotion: Work Plans, Progress Monitoring, and Evaluation Reporting (NCCDPHP WPPMER). The NCCDPHP WWPMER ICR is intended to be a Generic collection mechanism for cooperative agreement awardee work plans, evaluation plans, progress reports and evaluation reports, and will enable the accurate, reliable, uniform and timely submission to NCCDPHP of each awardee's work plans, progress reports, and evaluation reports, including strategies and activities, evaluation plans, progress and performance measures, and outcomes and success stories.

DATES: CDC must receive written comments on or before January 30, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0095 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

National Center for Chronic Disease Prevention and Health Promotion: Work Plans, Progress Monitoring, and Evaluation Reporting (NCCDPHP WPPMER)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Each year, more than 80% of the budget for the Centers for Disease Control and Prevention (CDC) and the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) is distributed to awardees such as state health departments, universities, and other organizations, primarily through cooperative agreements. The structure of cooperative agreements is such that awardees and CDC project officers, subject matter experts, and technical monitors work together on designing projects intended to improve public health.

Currently there is no single information collection mechanism that encompasses all collection needs for cooperative agreements. NCCDPHP seeks OMB approval to use Generic Information Collection Request (ICR) templates to collect work plan, monitoring, and/or evaluation information from cooperative agreement awardees. The proposed Generic ICR will allow the creation of individualized templates or forms for each phase of each award.

OMB approval is requested for three years. CDC requests OMB approval for an estimated 21,380 annualized burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Type of form	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Comprehensive Cancer Control Program Award Recipients.	Evaluation Plan	66	1	6	396
National Breast and Cervical Cancer Early Detection Program Award Recipients.	Work Plan	64	1	6	384
National Program of Cancer Registries Award Recipients.	Evaluation Report	50	1	12	600
Other CDC/NCCDPHP Award Recipients	Other Reporting Forms	2,000	1	10	20,000
Total					21,380

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–26474 Filed 11–30–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10500 and CMS–10340]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 30, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: document Identifier/OMB Control Number:____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10500 National Implementation of the Outpatient and Ambulatory Surgery Consumer Assessment of Healthcare Providers and Systems (OAS CAHPS) Survey

CMS–10340 Collection of Encounter Data from MA Organizations, Section 1876 Cost HMOs/CMPs, MMPs, and PACE Organizations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension without change of the previously approved collection; *Title of Information Collection:* National Implementation of the Outpatient and Ambulatory Surgery Consumer Assessment of Healthcare Providers and Systems (OAS CAHPS) Survey; *Use:* As documented in the CY 2022 OPPS/ASC Final Rule (86 FR 63863 through 63866), OAS CAHPS Survey data will be linked to reimbursement beginning with CY

2024 for HOPDs and CY 2025 for ASCs. ASCs will continue with voluntary implementation of the OAS CAHPS Survey throughout CY 2024.

HOPDs and ASCs contract with a CMS-approved, independent third-party survey vendor to implement the survey on their behalf and to submit the OAS CAHPS data to CMS. CMS publicly reports comparative results from OAS CAHPS after each facility has conducted data collection for 4 quarters. Data from OAS CAHPS enable consumers to make more informed decisions when choosing an outpatient surgery facility, aid facilities in their quality improvement efforts, and help CMS monitor the performance of outpatient surgery facilities. Considering the increasing Medicare expenditures for outpatient surgical services from HOPDs and ASCs, the implementation of OAS CAHPS provides CMS with much-needed statistically valid data from the patient perspective to inform quality improvement and comparative consumer information about specific facilities. The information collected in the OAS CAHPS survey will be used for the following purposes:

- To provide a source of information from which patient experience of care measures can be publicly reported to beneficiaries to help them make informed decisions for outpatient surgery facility selection;
- To aid facilities with their internal quality improvement efforts and external benchmarking with other facilities; and
- To provide CMS with information for monitoring and public reporting purposes.

Form Number: CMS–10500 (OMB control number: 0938–1240); *Frequency:* Once; *Affected Public:* Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 2,534,643; *Total Annual Responses:* 2,534,643; *Total Annual Hours:* 614,976. (For policy questions regarding this collection contact Memuna Ifedirah at 410–786–6849).

2. *Type of Information Collection Request:* Revision with change of the previously approved collection; *Title of Information Collection:* Collection of Encounter Data from MA Organizations, Section 1876 Cost HMOs/CMPs, MMPs, and PACE Organizations; *Use:* Section 1853(a)(3)(B) of the Act directs CMS to require MA organizations and eligible organizations with risk-sharing contracts under 1876 to ''submit data regarding inpatient hospital services ... and data regarding other services and other information as the Secretary deems necessary'' in order to implement a methodology for ''risk adjusting'' payments made to MA organizations and other entities. Risk adjustments to enrollee monthly payments are made in order to take into account ''variations in per capita costs based on [the] health status'' of the Medicare beneficiaries enrolled in an MA plan.

CMS uses encounter data to develop individual risk scores for risk adjusted payment to MA organizations, PACE organizations, and MMPs. Starting with Payment Year (PY) 2016, CMS began to blend risk scores calculated with Risk Adjustment Processing Data and Medicare Fee- For-Service (FFS) data with risk scores calculated with encounter data and FFS data, for risk scores calculated under both the CMS–HCC and the RxHCC models. In PY 2022, we will move to calculating risk scores under both the CMS–HCC and the RxHCC models using 100 percent of the risk score calculated using encounter data and FFS data.

All organizations required to submit encounter data use an electronic connection between the organization and CMS to submit encounter data and to receive information in return. CMS collects the data from MA organizations, 1876 Cost Plans, MMPs and PACE organizations in the X12N 837 5010 format for professional, DME, and institutional, and dental services or items provided to MA enrollees. *Form Number:* CMS–10340 (OMB control number: 0938–1152); *Frequency:* Daily; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 284; *Total Annual Responses:* 1,467,645,179; *Total Annual Hours:* 48,936,279. (For policy questions regarding this collection contact Raymond Mierwald at 410 446–5449).

Dated: November 28, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–26449 Filed 11–30–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10525]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by January 2, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section

3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Programs of All-Inclusive Care for the Elderly (PACE) PACE Quality Data Monitoring and Reporting; *Use:* The Programs of All-Inclusive Care for the Elderly (PACE) program is a unique model of managed care service delivery for the frail elderly, most of whom are dually-eligible for Medicare and Medicaid benefits. To be eligible to enroll in PACE, an individual must: be 55 or older, live in the service area of a PACE organization (PO), need a nursing home-level of care (as certified by the state in which he or she lives), and be able to live safely in the community with assistance from PACE.

PACE organizations are responsible for providing all required Medicare and Medicaid covered services, and any other service that the interdisciplinary team (IDT) determines necessary to improve and maintain a participant's overall health condition (42 CFR 460.92). POs must also comply with the quality monitoring and reporting requirements outlined in §§ 460.140, 460.200(b)(1), 460.200(c) and 460.202. POs are also required to report certain unusual incidents to other Federal and State agencies consistent with applicable statutory or regulatory requirements (see 42 CFR 460.136(a)(5)). *Form Number:* CMS–10525 (OMB control number: 0938–1264); *Frequency:* Occasion; *Affected Public:* Business or other for-profits, Not-for-profits institutions; *Number of Respondents:* 152; *Total Annual Responses:* 1,279; *Total Annual Hours:* 1,471. (For policy questions regarding this collection contact Donna Williamson at 410 786 4647.)

Dated: November 28, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–26444 Filed 11–30–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1051]

Modified Risk Tobacco Product Application: Renewal Applications for General Snus Smokeless Tobacco Products Submitted by Swedish Match U.S.A., Inc.

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity to provide public comment on modified risk tobacco product applications (MRTPAs). The applications are for renewal of existing modified risk tobacco product (MRTP) orders for *General Snus* smokeless tobacco products submitted by Swedish Match U.S.A., Inc.

DATES: Electronic or written comments on the application may be submitted beginning December 1, 2023. FDA will establish a closing date for the comment period as described in section I.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1051 for ''Modified Risk Tobacco Product Applications: Renewal applications for *General Snus* smokeless tobacco products submitted by Swedish Match U.S.A., Inc.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read the background documents or electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the

''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Dhanya John or Adrian Mixon, Office of Regulations, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, email: *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 911 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387k) addresses the marketing and distribution of MRTPs. MRTPs are tobacco products that are sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. Section 911(a) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any MRTP unless an order issued by FDA pursuant to section 911(g) of the FD&C Act is effective with respect to such product.

Section 911(d) of the FD&C Act describes the information that must be included in a MRTPA, which must be filed and evaluated by FDA before an applicant can receive an order from FDA. FDA is required by section 911(e) of the FD&C Act to make a MRTPA available to the public (except for matters in the application that are trade secrets or otherwise confidential commercial information) and to request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying the application. The determination of whether an order is appropriate under section 911 of the FD&C Act is based on the scientific information submitted by the applicant as well as the scientific evidence and other information that is made available to the Agency, including through public comments.

Section 911(g) of the FD&C Act describes the demonstrations applicants must make to obtain an order from FDA under either section 911(g)(1) or (g)(2). The applicant, Swedish Match U.S.A., Inc., is seeking a renewal of the order under section 911(g)(1) of the FD&C Act.

FDA may issue an order under Section 911(g)(1) of the FD&C Act, if FDA has determined that the applicant has demonstrated that the proposed MRTP, as it is actually used by consumers, will:

- Significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and
- Benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

Section 911(g)(4) of the FD&C Act describes factors that FDA must take into account in evaluating whether a tobacco product benefits the health of individuals and the population as a whole.

FDA is issuing this notice to inform the public that renewal MRTPAs submitted by Swedish Match U.S.A. Inc. for the following products (identified by FDA Submission Tracking Numbers (STN) (MR0000256.PD1—MR0000256.PD9)) have been filed and are being made available for public comment:

- MR0000256.PD1: General Loose
- MR0000256.PD2: General Dry Mint Portion Original Mini
- MR0000256.PD3: General Portion Original Large
- MR0000256.PD4: General Classic Blend Portion White Large-12 ct
- MR0000256.PD5: General Mint Portion White Large
- MR0000256.PD7: General Nordic Mint Portion White Large- 12 ct
- MR0000256.PD8: General Portion White Large
- MR0000256.PD9: General Wintergreen Portion White Large

The applicant is seeking renewal of the authorization to market *General Loose, General Dry Mint Portion Original Mini, General Portion Original Large, General Classic Blend Portion White Large—12ct, General Mint Portion White Large, General Nordic Mint Portion White Large—12ct, General Portion White Large, and General Wintergreen Portion White Large Smokeless Tobacco Products (category)/ Loose Snus and Portioned Snus (subcategories)* as MRTPs under section 911(g)(1) of the FD&C Act.[1] These products previously received such authorization in October 2019, and the applicant is including information from the previous MRTPAs by cross-reference.

FDA will post the application documents, including any amendments, to its website for the MRTPAs (see section II) for public comment on a rolling basis as they are redacted in accordance with applicable laws. In this document, FDA is announcing the availability of the first batch of application documents for public comment. FDA intends to establish a closing date for the comment period that is both at least 180 days after the date of this notice and at least 30 days after the final documents from the application are made available for public comment. FDA will announce the closing date at least 30 days in advance. FDA believes that this comment period is appropriate given the volume and complexity of the applications being posted.

FDA will notify the public about the availability of additional application documents and comment period closing date via the Agency's web page for the MRTPAs (see section II) and by other means of public communication, such as by email to individuals who have signed up to receive email alerts. To receive email alerts, visit FDA's email subscription service management website (*https://www.fda.gov/about-fda/contact-fda/get-email-updates*), provide an email address, scroll down to the ''Tobacco'' heading, select ''Modified Risk Tobacco Product Application Update'', and click ''Submit''. To encourage public participation consistent with section 911(e) of the FD&C Act, FDA is making the redacted MRTPAs that are the subject of this notice available electronically (see section II).

II. Electronic Access

Persons with access to the internet may obtain the document(s) at *https://www.fda.gov/tobacco-products/advertising-and-promotion/swedish-match-usa-inc-mrtp-applications.*

Dated: November 28, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26498 Filed 11–30–23; 8:45 am]

BILLING CODE 4164–01–P

[1] The notice of availability for the General Snus MRTPAs that received a modified risk granted order appeared in the **Federal Register** on August 27, 2014 (79 FR 51183) and the docket containing notices and public comments, FDA–2014–N–1051, is accessible at: *https://www.regulations.gov/.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–3007]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration of Human Drug Compounding Outsourcing Facilities Under the Federal Food, Drug, and Cosmetic Act and Associated Fees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by January 2, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0776. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and Associated Fees Under Section 744K

OMB Control Number 0910–0776—Extension

This information collection helps to support implementation of section 503B of the FD&C Act (21 U.S.C. 353b) and the assessment and remission of user fees under section 744K of the FD&C Act (21 U.S.C. 379j–62).

A. Registration

Under section 503B of the FD&C Act a facility that compounds drugs may elect to register with FDA as an outsourcing facility. Upon electing to do so, outsourcing facilities must register annually between October 1 and December 31, providing information that includes its name, place of business, a unique facility identifier, and a point of contact's email address and phone number. The outsourcing facility must also indicate: (1) whether it intends to compound, within the next calendar year, a drug that appears on our drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e) and (2) whether it compounds from bulk drug substances and, if so, whether it compounds sterile or nonsterile drugs from bulk drug substances. Registered outsourcing facilities must submit a drug product report upon initial registration under section 503B of the FD&C Act and twice each year in June and December for drug products produced during the previous 6-month period. We require this data be submitted electronically, unless a waiver is granted, in structured product labeling (SPL) format.

Drug products compounded in a registered outsourcing facility can qualify for exemptions from the FDA-approval requirements in section 505 of the FD&C Act (21 U.S.C. 355), the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)), and the requirements for drug supply chain security in section 582 of the FD&C Act (21 U.S.C. 360eee–1) if the requirements in section 503B of the FD&C Act have been met. We provide general information and resources on our website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/human-drug-compounding,* including a list of currently registered outsourcing facilities as required under section 503B of the FD&C Act.

B. Registration Fees

Upon registration, and in accordance with sections 503B and 744K of the FD&C Act, facilities are assessed an establishment fee and receive an annual invoice from FDA with instructions for remitting payment. Until payment is made for each given fiscal year (FY), an establishment is not considered to be registered as an outsourcing facility. In accordance with section 744K of the FD&C Act, certain outsourcing facilities may qualify for a small business reduction in the amount of the annual establishment fee. To qualify for this reduction, an outsourcing facility must submit a written request to FDA certifying that the entity meets the requirements for the reduction. For each FY a firm seeks to qualify as a small business and receive the fee reduction, it must submit to FDA a written request by April 30 of the preceding FY. For example, an outsourcing facility must have submitted a written request for the small business reduction by April 30, 2023, to qualify for a reduction in the FY 2024 annual establishment fee.

Section 744K of the FD&C Act also requires an outsourcing facility to submit written requests for a small business reduction in a specified format: Form FDA 3908 entitled ''Outsourcing Facilities for Human Drug Compounding: Small Business Establishment Fee Reduction Request.'' The completed form should be submitted via email to *CDERCollections@fda.hhs.gov.* Form FDA 3908 is available from our website at: *https://www.fda.gov/media/90740/download.* In response to the submission of a small business reduction request, FDA will send a notification letter of its decision and recommends that applicants retain the notification.

C. Reinspection Fees

In accordance with section 503B of the FD&C Act, outsourcing facilities are subject to inspection and, in accordance with section 744K of the FD&C Act, subject to reinspection fees. A reinspection fee will be incurred for each reinspection and is intended to reimburse FDA when a particular outsourcing facility requires reinspection because of noncompliance identified during a previous inspection. After a reinspection is conducted, FDA will send an invoice to the email address indicated in the facility's registration file. The invoice contains instructions for remitting the reinspection fee. For further information on human drug compounding outsourcing facility fees, please visit our website at *https://www.fda.gov/industry/fda-user-fee-programs/human-drug-compounding-outsourcing-facility-fees.*

D. Dispute Resolution

Agency regulations under § 10.75 (21 CFR 10.75) provide for internal Agency review of decisions. Accordingly, an outsourcing facility may request reconsideration of an FDA decision related to the fee provisions of section 744K of the FD&C Act. Requests for reconsideration should include the facility's rationale for its position that FDA's decision was in error and include any additional information that is relevant to the outsourcing facility's assertion. The denial of a request for reconsideration may be appealed by submitting a written request to FDA, consistent with § 10.75.

To assist respondents with the information collection provisions, we have developed Agency guidance documents. The guidance document entitled ''Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the FD&C Act (November 2014)'' describes the process for electronic submission of

establishment registration information for outsourcing facilities and provides information on how to obtain a waiver from submitting registration information electronically. The guidance document entitled ''Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act (November 2014)'' (Fees for Human Drug Compounding Outsourcing Facilities guidance) describes the types and amounts of fees that outsourcing facilities must pay, the adjustments to fees required by law, how outsourcing facilities can submit payment to FDA, the consequences of outsourcing facilities' failure to pay fees, and how an outsourcing facility can qualify as a small business to obtain a reduction in fees. The guidance documents were issued consistent with our good guidance practice regulations (21 CFR 10.115), which provide for public comment at any time, and are available on our website at *https://www.fda.gov/media/87570/download* and *https://www.fda.gov/media/136683/download,* respectively.

All requests for dispute resolution should be sent via email to the Division of User Fee Management and Budget Formulation at *CDERCollections@fda.hhs.gov.* If an outsourcing facility does not have email access, it can mail a request to FDA via the carrier of its choice. For the most updated physical mailing address, visit this website: *https://www.fda.gov/aboutfda/centersoffices/officeofmedicalproductsandtobacco/cder/ucm382846.htm.*

In the **Federal Register** of August 15, 2023 (88 FR 55464), we published a 60-day notice soliciting comment on the proposed collection of information. No comments were received.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; 21 CFR section; guidance or associated FDA form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic Submission of Registration Information Using the SPL Format; 207.61; Section III. of the ''eDRLS'' [2] guidance.	79	1	79	4.5	355
Waiver Request from Electronic Submission of Registration Information; 207.65; Section VI. of the ''eDRLS'' [2] guidance.	1	1	1	1	1
Remission of Annual Establishment Fee from FDA Invoice; Section E.1. of the Fees for Human Drug Compounding Outsourcing Facilities guidance.	76	1	76	0.5 (30 minutes)	38
Request for Small Business Reduction (Form FDA 3908).	18	1	18	25	450
Reinspection Fees; Section C. of the Fees for Human Drug Compounding Outsourcing Facilities guidance.	12	1	12	0.5 (30 minutes)	6
Reconsideration Requests; Section V.B.1. of the Fees for Human Drug Compounding Outsourcing Facilities guidance.	1	1	1	1	1
Appeal of Reconsideration Denials; Section V.B.2. of the Fees for Human Drug Compounding Outsourcing Facilities guidance.	1	1	1	1	1
Total			188		852

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing'' (May 2009; available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-electronic-format-drug-establishment-registration-and-drug-listing*).

We estimate 79 respondents annually will submit outsourcing facility registrations using the SPL format as specified in Agency guidance and assume each registration will require 4.5 hours to prepare and complete. We expect no more than one waiver request from the electronic submission requirement annually and assume each waiver request will require 1 hour to prepare and submit. We estimate each of the 76 registrants will remit annual establishment fees and assume this task requires 30 minutes per respondent. We estimate that 18 of those respondents will request a small business reduction in the amount of the annual establishment fee using Form FDA 3908.

We estimate 12 outsourcing facilities annually will remit reinspection fees and assume this will require 30 minutes. We also estimate that we will receive one request for reconsideration and one appeal of a denial of a request for reconsideration and assume 1 hour per respondent for this activity.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Retention of Small Business Designation Notification Letter.	18	1	18	0.5 (30 minutes)	9

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate that annually 18 outsourcing facilities will maintain a copy of their small business designation letter and that maintaining each record will require 30 minutes. These estimates reflect a slight increase in the number of annual registrations, but a decrease in reinspection fee submissions.

Dated: November 24, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26445 Filed 11–30–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0955–0018]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 30, 2024.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 264–0041 and *PRA@HHS.GOV*.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0955–0018–60D and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov, PRA@HHS.GOV* or call (202) 264–0041 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program.

Type of Collection: Extension.

OMB No.: 0955–0018.

Abstract: The Department of Health and Human Services, Office of the Secretary, Office of the National Coordinator for Health IT Office of Policy, is requesting an approval by OMB on an extension request which pertains to a records and information retention requirement found at 45 CFR 170.402(b)(1). The purpose and use of this records and information retention requirement is to verify, as necessary, health IT developer compliance with the ONC Health IT Certification Program (Program) requirements, including certification criteria and Conditions and Maintenance of Certification. Specifically, a health IT developer must, for a period of 10 years beginning from the date each of a developer's health IT is first certified under the Program, retain all records and information necessary that demonstrate initial and ongoing compliance with the requirements of the Program.

ANNUALIZED BURDEN HOUR TABLE

Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Health IT Developers	435	1	104	45,240
Total	435			45,240

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023–26477 Filed 11–30–23; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report Office of the Director (OD)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To submit comments in writing or request more information on the proposed collection, contact: Jane J. Na, Director, Division of Assurances, Office of Laboratory Animal Welfare, NIH, call (301) 496–7163 or email your request to *olawdoa@mail.nih.gov.* Formal requests for information collection forms must be requested via email to *olawdoa@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 15, 2022, Vol. 87, No. 240 page 76631–76632 (87 FR 76631) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The Office of the Director (OD), National Institutes of Health (NIH), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, NIH has submitted to OMB a request for review and approval of the information collection listed below.

Proposed Collection Title: Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report, OMB #0925–0765, expiration date 11/30/2022, Reinstatement with Change, Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The NIH Office of Laboratory Welfare (OLAW) is responsible for the implementation, general administration, and interpretation of the Public Health Service (PHS) Policy on Humane Care and Use of Laboratory Animals (Policy) as codified in 42 CFR 52.8. The PHS Policy implements the Health Research Extension Act (HREA) of 1985 (Pub. L. 99–158 as codified in 42 U.S.C. 289d). The PHS Policy requires entities that conduct research involving vertebrate animals using PHS funds to have an Institutional Animal Care and Use Committee (IACUC), provide assurance that requirements of the Policy are met, and submit an annual report. Institutions in foreign countries comply with the PHS Policy or provide evidence that acceptable standards for the humane care and use of the animals in PHS-conducted or -supported activities will be met. An institution's animal care and use program is described in the Animal Welfare Assurance (Assurance) document and sets forth institutional compliance with PHS Policy. The purpose of the Assurance (Interinstitutional, Foreign, and Domestic) and Annual Report is to provide OLAW with documentation to satisfy the requirements of the HREA, illustrate institutional adherence to PHS Policy, and enable OLAW to carry out its mission to ensure the humane care and use of animals in PHS-supported research, testing, and training, thereby contributing to the quality of PHS-supported activities.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 9,219.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Domestic Assurance	Renewal and New	235	1	30	7,050
Domestic Annual Report	All Domestic	890	1	90/60	1,335
Foreign Assurance	Renewal and New	67	1	90/60	101
Foreign Annual Report	All Foreign	335	1	1	335
Interinstitutional Assurance for Foreign Performance Site or Interinstitutional Assurance Triad for Foreign Performance Site.	Foreign	46	1	30/60	23
Interinstitutional Assurance for Domestic Performance Site or Interinstitutional Assurance Triad for Domestic Performance Site.	Domestic	750	1	30/60	375
Total		2,323	6		9,219

Dated: November 22, 2023.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2023–26400 Filed 11–30–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Initial Review Group; Career Development Study Section (J), February 28, 2024, 10:00 a.m. to February 29, 2024, 06:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W624, Rockville, Maryland 20850 which was published in the **Federal Register** on November 2, 2023, FR Doc. 2023–24225, 88 FR 75294.

This notice is being amended to change the start time of the meeting from 10:00 a.m. to 9:00 a.m. on February 28, 2024. The meeting dates and location will stay the same. The meeting is closed to the public.

Dated: November 27, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–26451 Filed 11–30–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, November 27, 2023, 10:00 a.m. to November 28, 2023, 05:00 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on November 13, 2023, FR Doc 2023–24961, 88 FR 77597.

This notice is being amended to change the dates of this two-day meeting to December 14, 2023, and December 15, 2023. The meeting time remains the same. The meeting is closed to the public.

Dated: November 28, 2023.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–26450 Filed 11–30–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories and Instrumented Initial Testing Facilities

(IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Flanagan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Flanagan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with Section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for Federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare,* 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd, Suite 125, Scottsdale, AZ 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare,* 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295, (Formerly: Legacy Laboratory Services Toxicology MetroLab)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology

Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Omega Laboratories, Inc.,* 2150 Dunwin Drive, Unit 1 & 2, Mississauga, ON, Canada L5L 5M8, 289–919–3188

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085. Testing for Department of Defense (DoD) Employees Only

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (61 FR 37015, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia D. Flanagan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2023–26428 Filed 11–30–23; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Proposed Project: 988 Cooperative Agreements Monitoring Program (OMB No. 0930–0290)—New ICR

The Substance Abuse and Mental Health Services Administration (SAMHSA) is seeking Office of Management and Budget (OMB) Emergency approval for new information collection activities for monitoring all of SAMHSA's 988 Cooperative Agreements. The collection of this information is critical to successfully oversee operational response and quality of service through the 988 Suicide and Crisis Lifeline to ensure connections to care for individuals in suicidal crisis or emotional distress contacting in for 988 phone, chat, and text support for connecting local, state/territory and national outcomes and monitoring contractual obligations for current and future 988 grant programs. Much of this information is already embedded in the current 988 Suicide and Crisis Lifeline network administrator grants, the 988 state and territory grant program, or the 988 Tribal Response grant program.

Congress designated 988 in 2020 and the Lifeline transitioned to the 3-digit number in July 2022. As a part of the federal government's commitment to addressing the mental health crisis in America, unprecedented federal resources have been invested to scale up crisis centers in support of 988. In section 1103(a)(2)(B) of the Consolidated Appropriations Act, 2023, Congress called for enhanced program evaluation, including performance measures to assess program response and improve readiness and performance of the service, including review of each contact to ensure timely connection of service and quality provision in line with evidence-based care. To help meet the standards and requirements set forth in statute, ongoing communication of key outcomes within this OMB request must be received and reviewed to ensure connection and quality of care through 988.

The information being collected will be used by SAMHSA to ensure individuals in suicidal crisis can contact 988 Suicide and Crisis Lifeline and are connected to crisis centers provided evidence-based care and able to receive critical resource referral and linkage, including opportunities for mobile crisis support, crisis receiving and stabilizing facilities, peer respite centers and withdrawal management services. The four programs to be monitored and evaluated include the Tribal Cooperative Agreements, State and Territory Cooperative Agreements, 988 Crises Center Follow-up Cooperative Agreements, and the 988 Lifeline Administrator.

The purpose of the Tribal Cooperative Agreements is to provide resources to improve response to 988 contacts (including calls, chats, and texts) originating in Tribal communities and/or activated by American Indians/Alaska Natives. The information collection instruments include Tribal Government: Semi Annual Progress Report, Tribal Government: Monthly Meeting Agenda, Tribal Government: Quality Improvement Plan.

The purpose of the State and Territory Cooperative Agreements is to improve state and territory response to 988 contacts (including calls, chats, and texts) originating in the state/territory. The information collection instruments include State/Territory: Monthly Key Metrics, State/Territory: Quarterly Report Template, State/Territory: Programmatic QI Plan (Annual Collection), State/Territory: Monthly Meeting Call Agenda, State/Territory: Chat and Text Report (Annual Collection), State/Territory: Communications Plan (Annual Collection), State/Territory: Sustainability Plan (Annual Collection), State/Territory: Mobile Crisis and 988–911 reports (Annual Collection).

The purpose of the 988 Crisis Center Follow Up Cooperative Agreements is to provide a crisis center response that ensures the systematic follow-up of suicidal persons who contact a 988 Suicide and Crisis Lifeline (988 Lifeline) Crisis Center; provides enhanced coordination of crisis stabilization, crisis respite, mobile crisis outreach (MCO) response services and other services on the crisis continuum of care; reduces unnecessary police engagement and; improves connections for high-risk populations. The information collection instruments include Crisis Center Data Reporting Elements and Crisis Center Monthly Agenda Template.

Finally, the purpose of the 988 Lifeline Administrator is to manage, enhance, and strengthen the 988 Lifeline network that routes individuals in the United States to a network of certified crisis centers that link to local emergency, mental health, and social services resources. The information collection instruments include Instrument 1: Lifeline Key Metrics (Monthly) and Instrument 2: Monthly Progress Reports.

The total annualized burden to an estimated 529 respondents for the 988 Cooperative Agreements programs combined monitoring is estimated to be 2,944 hours. Burden estimates are based on the data collection requirements and the amount of respondents. These estimated burden hours over three years are as follows:

ESTIMATED TOTAL BURDEN FOR 988 COOPERATIVE AGREEMENTS MONITORING PROGRAM

SAMHSA tool	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total hour cost
Tribal Govt: Semi Annual Progress Report	25	2	50	2	100	$26.00	$2,600.00
Tribal Govt: Monthly Meeting Agenda	25	12	300	1	300	26.00	7,800.00
Tribal Govt: Quality Improvement Plan	25	1	25	2	50	26.00	1,300.00
State/Territory: Monthly Key Metrics	54	12	648	1	648	26.00	16,848.00
State/Territory: Quarterly Report Template	54	3	162	2	324	26.00	8,424.00
State/Territory: Programmatic QI Plan (Annual Collection)	54	1	54	2	108	26.00	2,808.00
State/Territory: Monthly Meeting Call Agenda	54	12	648	1	648	26.00	16,848.00
State/Territory: Chat and Text Report (Annual Collection)	54	1	54	1	54	26.00	1,404.00
State/Territory: Communications Plan (Annual Collection)	54	1	54	1	54	26.00	1,404.00
State/Territory: Sustainability Plan (Annual Collection)	54	1	54	2	108	26.00	2,808.00
State/Territory: Mobile Crisis and 988–911 reports (Annual Collection)	54	1	54	6	324	26.00	8,424.00
Crisis Center Data Reporting Elements	10	1	10	2	20	26.00	520.00
Crisis Center Monthly Agenda Template	10	1	10	2	20	26.00	520.00
Instrument 1: Lifeline Key Metrics (Monthly)	1	12	12	11.50	138	26.00	3,588.00
Instrument 2: Monthly Progress Reports	1	12	12	4	48	[1] 26.00	1,248.00
Total	529	73	2147		2,944		76,544.00

[1] The hourly wage of $26.00 was calculated based on rounding a $25.94 hourly wage based on the Occupational Employment and Wages, Mean Hourly Wage rate for Community and Social Service Occupations (*https://www.bls.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2023–26436 Filed 11–30–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–NEW]

Agency Information Collection Activities; New Collection: API (Application Programming Interface) Production Access Request

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 30, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–NEW in the body of the letter, the agency name and Docket ID USCIS–2023–0017. Comments must be submitted in English, or an English translation must be provided. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2023–0017.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2023–0017 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information

provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* API (Application Programming Interface) Production Access Request.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1595; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. USCIS has newly established a program to enable third party software development companies to access sandbox and production environments via Application Programming Interface (API) to our software systems. Software development companies would use Form G–1595 to request production access to USCIS APIs. USCIS will use the information provided on the form to verify that software development companies' products are in compliance with the Americans with Disabilities Act and covered by a suitable privacy policy as described in the form. Organizations must complete and submit this form before scheduling an application demonstration to present their features that use the API to which they are requesting production access.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1595 is 20 and the estimated hour burden per response is 0.91 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 18 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,000.

Dated: November 27, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–26402 Filed 11–30–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0013]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Travel Document

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until January 2, 2024.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0045. Comments must be submitted in English, or an English translation must be provided. All submissions received must include the OMB Control Number 1615–0013 in the body of the letter, the agency name and Docket ID USCIS–2007–0045.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on September 12, 2023, at 88 FR 62587, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0045 in the search box. Comments must be submitted in English, or an English translation must be provided. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Travel Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–131; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Certain aliens, principally lawful permanent residents, conditional permanent residents, refugees, asylees, applicants for adjustment of status, noncitizens with pending Temporary Protected Status (TPS) applications and granted TPS, eligible recipients of Deferred Action for Childhood Arrivals (DACA), noncitizens inside the United States seeking an Advance Parole Document, noncitizens outside the United States seeking an Advance Parole Document, and CNMI long-term residents seeking Advance Permission to Travel to allow them to travel to the United States and lawfully enter or reenter the United States. U.S. citizens and lawful permanent residents will no longer utilize Form I–131 to request parole for their eligible family members under the Cuban Family Reunification Parole (CFRP) or Haitian Family Reunification Parole (HFRP) processes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–131 (paper) is 467,203 and the estimated hour burden per response is 1.7 hours; the estimated total number of respondents for the information collection Form I–131 (online) is 16,667 and the estimated hour burden per response is 1.65 hours; the estimated total number of respondents for biometrics processing is 84,000 and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for passport-style photos is 380,000 and the estimated hour burden per response is 0.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,110,026 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $146,057,780.

Dated: November 27, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–26398 Filed 11–30–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6419–N–02]

Announcement of the Housing Counseling Federal Advisory Committee; Notice of Public Meeting

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of housing counseling Federal advisory committee public meeting.

SUMMARY: This gives notice of a Housing Counseling Federal Advisory Committee (HCFAC) meeting and sets forth the proposed agenda. The HCFAC meeting will be held on Wednesday January 10, 2024. The meeting is open to the public and is accessible to individuals with disabilities.

DATES: The virtual meeting will be held on Wednesday January 10, 2024, starting at 1:00 p.m. Eastern Daylight Time (EDT), via ZOOM.

FOR FURTHER INFORMATION CONTACT: Virginia F. Holman, Housing Program Technical Specialist, Office of Housing Counseling, U.S. Department of Housing and Urban Development, 600 East Broad Street, Richmond, VA 23219; telephone number 540–894–7790 (this is not a toll-free number); email *virginia.f.holman@hud.gov.* HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Individuals may also email *HCFACCommittee@hud.gov.*

SUPPLEMENTARY INFORMATION: HUD is convening the virtual meeting of the HCFAC on Wednesday, January 10, 2024, from 1:00 p.m. to 4:00 p.m. EST. The meeting will be held via ZOOM. This meeting notice is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. 1009(a)(2).

Draft Agenda—Housing Counseling Federal Advisory Committee Meeting

Wednesday, January 10, 2024

I. Welcome
II. Presentations and Advisory Committee Discussion
III. Public Comment
IV. Next Steps
V. Adjourn

Registration

The public is invited to attend this half-day (3 hours) virtual meeting, using ZOOM. Advance registration is required to attend. To register, please visit *https://us06web.zoom.us/webinar/register/WN_f0OY6XCuTS-ErHAO2mScfQ* to complete your registration. If you have any questions about registration, please email *HCFACCommittee@ajantaconsulting.com.* After submitting the registration form, you will receive a registration confirmation with the meeting link and passcode needed to attend. Individuals with speech or hearing impairments may learn more about how to make an accessible telephone call by visiting: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Closed captioning will be available during the ZOOM meeting.

Comments

Members of the public will have an opportunity to provide oral and written comments relative to agenda topics for the HCFAC's consideration. Your registration confirmation will also explain the process for speaking.

Available time for public comments will be limited to ensure pertinent HCFAC business is completed. The amount of time allotted to each person will be limited to two minutes and will be allocated on a first-come first-served basis by HUD. Written comments can be provided on the registration form no later than January 9, 2024. Please note, written comments submitted will not be

read during the meeting. The HCFAC will not respond to individual written or oral statements during the meeting; but it will take all public comments into account in its deliberations.

Meeting Records

Records and documents discussed during the meeting as well as other information about the work of the HCFAC, will be available for public viewing as they become available on *hud.gov* at: *https://www.hud.gov/program_offices/housing/sfh/hcc;* and at *https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzvQAAQ.*

Information on the Committee is also available on HUD Exchange at *https://www.hudexchange.info/programs/housing-counseling/federal-advisory-committee/.*

Julia R. Gordon,

Assistant Secretary for Housing, FHA Commissioner.

[FR Doc. 2023–26441 Filed 11–30–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2023–N074; FXFR13360900000–FF09F14000–234]

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The U.S. Fish and Wildlife Service gives notice of a public meeting of the Aquatic Nuisance Species (ANS) Task Force in accordance with the Federal Advisory Committee Act. The purpose of the ANS Task Force is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic invasive species; to monitor, control, and study such species; and to disseminate related information.

DATES: The ANS Task Force will meet Wednesday and Thursday, January 24–25, 2024, from 8:30 a.m. to 5 p.m. each day (Eastern Time).

Registration: The meeting is open to the public, but registration is required. The deadline for registration is January 18, 2024.

Accessibility: The deadline for accessibility accommodation requests is January 18, 2024. Please see *Accessibility Information,* below.

ADDRESSES: The meeting will take place in Conference Room 5A217 of the U.S. Geological Survey National Center, located at 12201 Sunrise Valley Drive, Reston, VA 20192. Members of the public may choose to participate remotely by phone or video conferencing platform. To register and receive the telephone number or web address for remote participation, contact the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) or visit the ANS Task Force website at *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

FOR FURTHER INFORMATION CONTACT: Susan Pasko, Executive Secretary, ANS Task Force, by telephone at (571) 623–0608, or by email at *Susan_Pasko@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Aquatic Nuisance Species (ANS) Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 and is composed of Federal and ex-officio members. The purpose of the ANS Task Force is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic invasive species; to monitor, control, and study such species; and to disseminate related information.

This meeting is open to the public. The meeting agenda includes: reports from ANS Task Force members, reports and recommendations from regional panels and subcommittees, discussion on priority outputs to advance the goals identified in the ANS Task Force Strategic Plan for 2020–2025, presentations highlighting invasive species challenges and innovative measures for ANS management and control, and a public comment period. The final agenda and other related meeting information will be posted on the ANS Task Force website, *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

Public Input

If you wish to provide oral public comment or provide a written comment for the ANS Task Force to consider, contact the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than January 18, 2024.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the ANS Task Force Executive Secretary, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this meeting. Requests to address the ANS Task Force during the meeting will be accommodated in the order the requests are received. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Executive Secretary up to 30 days following the meeting.

Accessibility Information

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Please contact the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than January 18, 2024, to give the U.S. Fish and Wildlife Service sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

David A. Miko,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 2023–26423 Filed 11–30–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500170159]

Notice of Intent To Amend Resource Management Plans for Section 368 Energy Corridor Revisions and Prepare an Associated Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of

1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) intends to prepare Resource Management Plan (RMP) amendments with an associated Environmental Impact Statement (EIS) for the Section 368 energy corridors, and by this notice is announcing the beginning of the scoping period to solicit public comments and identify issues and is providing the planning criteria for public review.

DATES: The BLM requests the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information by January 2, 2024. To afford the BLM the opportunity to consider issues raised by commenters on the Draft RMP Amendments/EIS, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later.

ADDRESSES: You may submit comments on issues and planning criteria related to Section 368 energy corridors by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2022227/510.* This is the preferred method of commenting.
- *Email: corridors@anl.gov*.
- *Mail:* BLM, Attn: Section 368 Corridors—Crystal Hoyt, 280 Highway 191 North, Rock Springs, WY 82901–3447.

Documents pertinent to this proposal may be examined online at the project website provided above.

FOR FURTHER INFORMATION CONTACT: Crystal Hoyt, Project Lead, telephone 307–352–0322; address BLM, 280 Highway 191 North, Rock Springs, WY 82901–3447; email *choyt@blm.gov*. Contact Ms. Hoyt to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Hoyt. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM intends to prepare RMP amendments with an associated EIS for the specific Section 368 energy corridors identified in this notice, announces the beginning of the scoping process, announces the BLM's intent to hold four in-person public scoping meetings and two webinars, and seeks public input on issues and planning criteria. Section 368 energy corridors are managed as the preferred locations for development of energy transportation projects on lands managed by the BLM. Each corridor has a defined centerline, width, and compatible uses (underground-only, electric-only, or multi-modal). The RMP amendments are being considered to allow the BLM to evaluate modifying portions of seven existing designated Section 368 energy corridors, which would require amending the following 19 existing plans:

- Alturas Resource Management Plan, California
- Bishop Resource Management Plan, California
- Bradshaw-Harquahala Resource Management Plan, Arizona
- California Desert Conservation Area Plan, California
- Carson City Field Office Consolidated Resource Management Plan, Nevada
- Cedar Beaver Garfield Antimony Resource Management Plan, Utah
- Ely District Resource Management Plan, Nevada
- Lake Havasu Resource Management Plan, Arizona
- Las Vegas Resource Management Plan, Nevada
- Little Snake Resource Management Plan, Colorado
- Lower Sonoran Resource Management Plan, Arizona
- Mimbres Resource Management Plan, New Mexico
- Pinyon Management Framework Plan, Utah
- Rawlins Resource Management Plan, Wyoming
- Safford District Resource Management Plan, Arizona
- St. George Field Office Resource Management Plan, Utah
- Surprise Resource Management Plan, California
- Winnemucca District Resource Management Plan, Nevada
- Yuma Resource Management Plan, Arizona

The planning area is located in seven western states (Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming) and encompasses approximately 673 corridor miles on public land. This planning effort prioritizes consideration of amendments to only the corridors identified and described in this notice, which require interstate coordination and national-level planning to be implemented efficiently and effectively.

This land use planning process will not evaluate or designate areas of critical environmental concern (ACECs), and the BLM will not consider ACEC nominations as part of this process.

Background Information

Section 368 of the Energy Policy Act of 2005 (EPAct) (42 U.S.C. 15926) directed the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior to designate corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the 11 contiguous Western states (Section 368 energy corridors). In January 2009, the BLM signed a record of decision (2009 WWEC Programmatic EIS ROD) approving amendments to 92 BLM resource management plans to designate approximately 5,000 miles of Section 368 energy corridors on BLM-administered lands in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, consistent with the requirements of the EPAct. Several organizations challenged the BLM's decision in Federal court. As part of a settlement agreement to resolve the challenge, the BLM, together with the U.S. Forest Service and the U.S. Department of Energy (collectively Agencies), agreed to conduct reviews of the designated corridors, gather input from stakeholders, and identify recommendations for potential revisions, deletions, and additions to these corridors and to interagency operating procedures.

In April 2022, the Agencies issued a final report outlining the recommendations from the regional reviews for potential adjustments to the designated Section 368 energy corridors. The Energy Policy Act of 2005 Section 368 Energy Corridor Review Final Report: Regions 1–6 (''Final Report'') supported modifications to certain corridors on the basis that: portions of the corridors do not meet demand from new energy sources, including wind and solar; the presence of sensitive resources have inhibited Section 368 energy corridors from being used as intended; and physical pinch points present limitations on potential future development. Through this RMP amendment/EIS planning process, the BLM will evaluate modifications to seven designated Section 368 energy corridors through proposed amendments to 19 BLM RMPs in seven states (Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming). The proposed amendments could modify existing allocations, designations, objectives, and management direction.

Purpose and Need

The need for the action is to remove barriers or conflicts in the network of designated Section 368 energy corridors on BLM-administered lands that impair the efficient and effective use of the energy corridors. The BLM completed a regional review of all the designated Section 368 energy corridors in 2022 and identified the need for revisions to corridor designations to promote the siting, permitting, and review of energy right-of-way projects and to designate new corridors, as appropriate. Changes to the seven designated corridors and one proposed corridor addition identified in this planning effort would require interstate coordination and national-level planning to be implemented efficiently and effectively. Specifically, the BLM has found that portions of these corridors are not situated to meet changing demand from new energy sources, including wind and solar, and that changes to the presence of sensitive resources have inhibited the ability for designated Section 368 energy corridors to be used as intended. The BLM has further found that non-BLM managed lands as well as physical pinch points present limitations on potential future development. The regional review found that the changes to the corridors would provide effective connectivity for energy transmission across the western United States.

The purpose for the action is to identify Section 368 energy corridor designations that address the need identified above in a manner that fulfills the BLM's responsibilities under Section 368 of the EPAct, Section 503 of FLPMA (43 U.S.C. 1763), and the 2013 Presidential Memorandum ''Transforming Our Nation's Electric Grid Through Improved Siting, Permitting, and Review,'' in a manner that considers the following siting principles: corridors are thoughtfully sited to provide maximum utility and minimum impact to the environment; corridors promote efficient use of the landscape for necessary development; appropriate and acceptable uses are defined for specific corridors; and corridors provide connectivity to renewable energy generation to the maximum extent possible while also considering other sources of generation, in order to balance the renewable sources and to ensure the safety and reliability of electricity transmission. These modifications would consider amending existing allocations, designations, and management direction to ensure changes do not result in conflicting decisions for the current and future management within these corridors.

Preliminary Alternatives

The BLM will develop and analyze alternatives that include a range of potential changes to the seven designated Section 368 energy corridors identified in this notice and one potential corridor addition as summarized below.

- No Action Alternative: Under the No Action Alternative, the seven Section 368 energy corridors would remain as designated in the 2009 WWEC Programmatic EIS ROD (or as modified by a subsequent RMP amendment). The proposed Wamsutter-Powder Rim corridor addition would not be designated as a Section 368 energy corridor.
- Action Alternative A—Adopt the Recommendations in the Section 368 Energy Corridor Review Final Report: Under Action Alternative A, the BLM would adopt the changes recommended in the Final Report for each of the corridors listed below.
  - Corridor 16–104—Remove entire corridor designation.
  - Corridor 18–23—Shift entire corridor along existing 1000-kilovolt (kV) transmission line and narrow corridor width to 250-ft.
  - Corridor 27–41—Shift corridor east at Milepost (MP) 130 along existing 500-kV transmission line and extend corridor east to Laughlin, Nevada.
  - Corridor 30–52—Between MP 94 and MP 200, add a corridor braid along the Ten West Link 500 kV Project authorized right-of-way (ROW). Realign the corridor between MP 190 and MP 200 with the existing transmission line as the northern boundary of the corridor to avoid the Big Horn Mountain Wilderness Area and widen the corridor at MP 169 to maintain corridor width where a land conveyance to La Paz County was identified.
  - Corridor 81–213—Add a corridor braid to the north along the Southline Transmission Line Project authorized ROW and the SunZia Southwest Transmission Project authorized ROW. Revise the corridor along existing 500-kV transmission line from MP 0 to MP 18 to avoid overlap with the Afton SEZ.
  - Corridor 113–114—Add a corridor braid from MP 0 to MP 104 along the TransWest Express Transmission Line authorized ROW as well as an east-west connector at MP 30, connecting the designated corridor to the TransWest Express Transmission Project authorized ROW in eastern Nevada.
  - Corridor 138–143—Remove entire corridor designation.
  - Wamsutter-Powder Rim—Replace Corridor 138–143 with a new corridor along the TransWest Express Transmission Project authorized ROW. The northern end of the corridor would begin at the intersection with Corridor 73–138 (MP 15) in Wyoming and the southern end would terminate at the intersection with Corridor 126–133 (MP 45) in Colorado.
- Additional Action Alternatives—Additional action alternatives for individual corridors may be identified by cooperators, Federal agencies, Tribes, State and local agencies, and the public during the scoping process or by the BLM during its NEPA review. Any action alternatives would need to be responsive to the purpose and need.

The BLM welcomes comments on all preliminary alternatives as well as suggestions for additional alternatives.

Planning Criteria

The planning criteria guide the planning effort and lay the groundwork for effects analysis by identifying the preliminary issues and their analytical frameworks. Preliminary issues for the planning area have been identified by BLM personnel and through early engagement conducted for this planning effort with Federal, State, and local agencies, Tribes, and stakeholders. The planning criteria are available for public review and comment at the project ePlanning website (see **ADDRESSES**).

Summary of Expected Impacts

The BLM has identified the following potential effects to be examined during the planning process: effects to natural and cultural resources, other resource uses, and social and economic conditions from changes to Section 368 energy corridor designation for the corridors evaluated in this planning effort.

This planning effort will evaluate changes to energy corridor designations by taking into account management considerations for such corridor designations; the recommendations provided in the Final Report; siting principles, including those identified in the settlement agreement; and the management direction within the land use plans to be amended under the RMP amendments/EIS. The designation of a corridor does not authorize any ground-disturbing activities; however, the analysis in the EIS will consider the environmental effects from future energy infrastructure development within the energy corridors under each alternative.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 90-day comment period on the Draft RMP Amendments/EIS and concurrent 30-day public protest period and 60-day Governors' consistency review on the Proposed RMP Amendments. The Draft RMP Amendments/EIS is anticipated to be available for public review in late 2024 or early 2025, and the Proposed RMP Amendments/Final EIS is anticipated to be available for public protest of the Proposed RMP Amendments in Summer 2025 with Approved RMP Amendments and a Record of Decision expected in Fall 2025.

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which guide the development and analysis of the Draft RMP Amendments/EIS. The BLM will be holding two virtual public scoping meetings and four in-person meetings. The specific dates and locations of these scoping meetings will be announced at least 15 days in advance through local media, social media, newspapers, and the ePlanning website (see **ADDRESSES**).

Lead and Cooperating Agencies

The BLM is the lead agency for the NEPA analysis associated with this planning effort. The BLM has invited other Federal agencies, State and local government agencies, and Tribes to be cooperating agencies. Other stakeholders that may be interested in or affected by the revision are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EIS as a cooperating agency.

Responsible Official

The BLM Director is the deciding official for this planning effort.

Nature of Decision To Be Made

The BLM will decide whether to amend RMPs to address the purpose and need, consistent with the principles of multiple use and sustained yield.

Interdisciplinary Team

The BLM will use an interdisciplinary approach to develop the plan amendments in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in this planning effort: rangeland management, minerals and geology, forestry, outdoor recreation, archaeology, paleontology, wildlife and fisheries, lands and realty, hydrology, soils, sociology, and economics.

Additional Information

The BLM will consider mitigation to appropriately address reasonably foreseeable impacts on resources from the proposed plan amendments and reasonable alternatives and future energy infrastructure development. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation, and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA and land use planning processes for this planning effort to help support compliance with applicable procedural requirements under the Endangered Species Act (16 U.S.C. 1536) and Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), 800.3(b), and 800.8(a), including public involvement requirements of Section 106. Information about historic and cultural resources and threatened and endangered species within the area potentially affected by the proposed plan amendments will assist the BLM in identifying and evaluating impacts on such resources.

The BLM will consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175 and applicable Bureau and Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts on cultural resources, will be given due consideration. Federal, State, and local agencies, along with Indian Tribal Nations and other stakeholders that may be interested in or affected by the proposed changes to Section 368 energy corridors that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency. The BLM intends to hold a series of government-to-government consultation meetings. The BLM will send invitations to potentially affected Tribal Nations prior to the meetings. The BLM will provide additional opportunities for government-to-government consultation during the NEPA process.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.9 and 43 CFR 1610.2)

Benjamin E. Gruber,

Acting Assistant Director, Energy, Minerals and Realty Management.

[FR Doc. 2023–26493 Filed 11–30–23; 8:45 am]

BILLING CODE 4331–29–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0009; DS63644000 DRT000000.CH7000 234D1113RT; OMB Control Number 1012–0008]

Agency Information Collection Activities; Collection of Monies Due the Federal Government; and Processing Refund Requests Related to Overpayments Made to ONRR

AGENCY: Office of Natural Resources Revenue (''ONRR''), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ONRR is proposing to revise an information collection. Through this Information Collection Request (ICR), ONRR seeks renewed authority to collect information necessary to cover cross-lease netting in the calculation of late-payment interest; a lessee's designation of designee for payment obligations; tribal permission for recoupment on Indian oil and gas leases; and refund requests for overpayments made to ONRR.

DATES: You must submit your written comments on or before January 30, 2024.

ADDRESSES: All comment submissions must (1) reference ''OMB Control Number 1012–0008'' in the subject line; (2) be sent to ONRR before the close of the comment period listed under **DATES**; and (3) be sent using the following method:

Electronically via the Federal eRulemaking Portal: Please visit *https://www.regulations.gov.* In the Search Box, enter the Docket ID Number for this ICR renewal (''ONRR–2011–0009'') and click ''search'' to view the publications associated with the docket folder. Locate the document with an open

comment period and click the ''Comment Now!'' button. Follow the prompts to submit your comment prior to the close of the comment period.

Docket: To access the docket folder to view the ICR **Federal Register** publications, go to *https://www.regulations.gov* and search ''ONRR–2011–0009'' to view renewal notices recently published in the **Federal Register**, publications associated with prior renewals, and applicable public comments received for this ICR. ONRR will make the comments submitted in response to this notice available for public viewing at *https://www.regulations.gov.*

OMB ICR Data: OMB also maintains information on ICR renewals and approvals. You may access this information at *https://www.reginfo.gov/public/do/PRASearch.* Please use the following instructions: Under the ''OMB Control Number'' heading enter ''1012–0008'' and click the ''Search'' button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the ''View ICR—OIRA Conclusion'' page, check the box next to ''All'' to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mr. Christopher Davis, Financial Management, ONRR by email at *Christopher.Davis@onrr.gov* or by telephone at (303) 231–3977. To inquire about form ONRR–4425, please contact Aaron Lindquist, Data Solutioning and Technical Support, ONRR by email at *Aaron.Lindquist@onrr.gov* or by telephone at (303) 231–3020. To inquire about refund requests, please contact Thomas Anthony, Revenue, Reporting, and Compliance Management, ONRR by email at *Thomas.Anthony@onrr.gov* or by telephone at (303) 231–3708.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Pursuant to the PRA, 44 U.S.C. 3501, *et seq.,* and 5 CFR 1320.5, all information collections, as defined in 5 CFR 1320.3, require approval by OMB. ONRR may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of ONRR's continuing effort to reduce paperwork and respondent burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information in accordance with the PRA and 5 CFR 1320.8(d)(1). This helps ONRR to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of ONRR's estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. ONRR will include or summarize each comment in its request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask ONRR in your comment to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: (a) General Information: The Federal Oil and Gas Royalty Management Act of 1982 (''FOGRMA'') directs the Secretary of the Interior (''Secretary'') to ''establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.'' 30 U.S.C. 1711. ONRR performs these and other mineral revenue management responsibilities for the Secretary. *See* U.S. Department of the Interior Departmental Manual, 112 DM 34.1 (Dec. 9, 2020). This ICR covers the burden hours associated with performing these responsibilities.

(b) Information Collections: This ICR concerns the following information.

(1) Cross-Lease Netting in Calculation of Late-Payment Interest: In calculating late-payment interest, ONRR allows a lessee to offset an overpayment made on a lease against an underpayment made on another lease if certain conditions are met. *See* 30 CFR 1218.42(a). ONRR refers to this offset as ''cross-lease netting.'' If a lessee asserts that interest is not owed due to cross-lease netting, it must provide information to ONRR showing that the conditions are met.

(2) Designation of Designee for Federal Oil and Gas Leases: FOGRMA allows a lessee to notify the Secretary in writing of its designation of ''a person to make all or part of the payments due under a lease on the lessee's behalf . . . in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee.'' *See* 30 U.S.C. 1712(a). ONRR specifies the information that a lessee must provide to designate a designee in 30 CFR 1218.52(a). A lessee must use form ONRR–4425, *Designation Form for Payment Responsibility,* to provide that information.

As discussed below, ONRR is modifying the form ONRR–4425 as part of this ICR renewal to be more consistent with FOGRMA and to better capture the information that a lessee is required to provide under 30 CFR 1218.52. The modifications do not expand the information collected or change the burden hours necessary to complete the form.

ONRR is modifying the title of the form from ''Designation Form for Royalty Payment Responsibility'' to ''Designation Form for Payment Responsibility'' because the form may be used for certain payment types other than royalty payments. See 30 U.S.C. 1712(a) and 30 CFR 1218.52(a)(3).

The current form ONRR–4425 has fields for specifying effective and termination dates for the designation. However, FOGRMA provides that a notice of designation, modification of designation, or termination of designation is effective upon receipt by the Secretary. *See* 30 U.S.C. 1702 (definition of ''designee''). ONRR therefore is removing the fields for a lessee to specify effective and

termination dates and adding an instruction stating that a designation, modification of designation, or termination of designation is effective upon receipt by ONRR. ONRR is also adding a ''filing type'' field for the lessee to specify whether the form is being filed as an initial designation, a modification of a designation, or a termination of a designation.

The current form ONRR–4425 contains fields for a lessee to provide both the ONRR lease number and the leasing agency (Bureau of Land Management or Bureau of Safety and Environmental Enforcement) lease number for the designation. ONRR is modifying the form to require only the leasing agency number since ONRR's data systems can convert the leasing agency number to the ONRR lease number.

Section 1218.52(a)(6) requires the lessee to provide the name, address, and phone number of the individual to contact for the designee. However, the current form ONRR–4425 does not have a field for the lessee to supply this information. ONRR therefore is adding a field to the form for the lessee to provide this contact information if the designee is a company.

Though the current form ONRR–4425 contains fields for a lessee to specify whether it is the lessee of record or operating rights owner, it does not contain a place to provide its percentage of operating rights ownership in the lease, as required by § 1218.52(a)(4). ONRR therefore is modifying the form ONRR–4425 to include a field for a lessee to provide its percentage of operating rights ownership.

Section 1218.52(a)(10) requires a lessee to provide a copy of the written designation with the form ONRR–4425, reflecting the designee's acceptance of the designation. ONRR is modifying the form ONRR–4425 to remind the lessee of this requirement. ONRR also is modifying the form ONRR–4425 instructions to specify that a lessee may use this written designation to (i) add additional leases to the designation, (ii) specify product types for the designation, and (iii) specify its operating rights percentages in different areas covered by the lease if its operating rights ownership is not uniform throughout the lease. Finally, ONRR is removing any requirement to provide fax information.

(3) Tribal Permission for Recoupment on Indian Oil and Gas Leases: Pursuant to 30 CFR 1218.53(b), a payor may, with written permission authorized by tribal statute or resolution, recoup an overpayment against royalties or other revenues owed for the same production month under other leases for which that tribe is the lessor. *See* 30 CFR 1218.53(b). The payor must provide ONRR with a copy of that written permission. *Id.*

(4) Processing Refund Requests: FORGMA authorizes a Federal oil and gas lessee to request a refund for an overpayment in certain situations. *See* 30 U.S.C. 1721a(b). FOGRMA requires the lessee to supply information to support its refund request. *Id.* Additionally, ONRR collects banking information from the refund recipient in order to disburse the overpaid amount to the correct account if a refund is warranted.

Title: Collection of Monies Due the Federal Government; and Processing Refund Requests Related to Overpayments Made to ONRR.

OMB Control Number: 1012–0008.

Bureau Form Number: Form ONRR–4425.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Federal and Indian lessees.

Total Estimated Number of Annual Respondents: 170.

Total Estimated Number of Annual Responses: 170.

Total Estimated Number of Annual Burden Hours: 93.75 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: We have identified no ''non-hour cost'' burden associated with this collection of information.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA.

Howard Cantor,

Director, Office of Natural Resources Revenue.

[FR Doc. 2023–26433 Filed 11–30–23; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–23–057]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 8, 2023 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–699–702 and 731–TA–1659–1660 (Preliminary) (Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and Vietnam). The Commission currently is scheduled to complete and file its determinations on December 11, 2023; views of the Commission currently are scheduled to be completed and filed on December 18, 2023.
5. Commission vote on Inv. Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 532–534, and 536 (Fifth Review) (Circular Welded Pipe and Tube (CWP) from Brazil, India, Mexico, South Korea, Taiwan, Thailand, Turkey). The Commission currently is scheduled to complete and file its determinations and views of the Commission on December 28, 2023.
6. *Outstanding action jackets:* none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 29, 2023.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2023–26529 Filed 11–29–23; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Authorization for Release of Information

AGENCY: Office of the Pardon Attorney, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of the Pardon Attorney, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously

published in the **Federal Register** on September 28, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until January 2, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, 950 Pennsylvania Avenue NW, Main Justice—RFK Building, Washington, DC 20530; *kira.gillespie@usdoj.gov;* (202) 616–6073.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *Title of the Form/Collection:* Authorization for Release of Information.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Pardon Attorney.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Individuals or households.

Abstract: The information collected from the Authorizations for the Release of Information will primarily be used to make recommendations regarding executive clemency and ensure proper notification to the Federal Bureau of Investigation, U.S. Attorneys' Offices, U.S. Probation Offices, and federal courts in the event of grants of executive clemency. The Authorization for the Release of Information will only be collected once per application for clemency.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 1,000 applicants.

7. *Estimated Time per Respondent:* Five minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 84 hours.

10. *Total Estimated Annual Other Costs Burden:* Approximately 700 applicants are expected to mail in the Authorization for the Release of Information, incurring a $.63 postage fee for each submission. This results in a total estimated cost burden of $441. Applicants will not incur any capital, start-up, or system maintenance costs associated with this information collection.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: November 28, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–26432 Filed 11–30–23; 8:45 am]

BILLING CODE 4410–29–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Authorization for Release of Medical Information

AGENCY: Office of the Pardon Attorney, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of the Pardon Attorney, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on September 28, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until January 2, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, 950 Pennsylvania Avenue NW, Main Justice—RFK Building, Washington, DC 20530; *kira.gillespie@usdoj.gov;* (202) 616–6073.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *Title of the Form/Collection:* Authorization for Release of Medical Information.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Pardon Attorney.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Individuals or households.

Abstract: The information collected from the Authorizations for the Release of Medical Information will primarily be used to make recommendations regarding executive clemency and ensure proper notification to the Federal Bureau of Investigation, U.S. Attorneys' Offices, U.S. Probation Offices, and federal courts in the event of grants of executive clemency. The Authorization for the Release of Medical Information will only be collected once per application for clemency.

5. *Obligation To Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 1,000 applicants.

7. *Estimated Time per Respondent:* Five minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 84 hours.

10. *Total Estimated Annual Other Costs Burden:* Approximately 700 applicants are expected to mail in the Authorization for the Release of Medical Information, incurring a $.63 postage fee for each submission. This results in a total estimated cost burden of $441. Applicants will not incur any capital, start-up, or system maintenance costs associated with this information collection.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: November 28, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–26431 Filed 11–30–23; 8:45 am]

BILLING CODE 4410–29–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 005–2023]

Privacy Act of 1974; Systems of Records

AGENCY: Department of Justice.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A–108, notice is hereby given that the United States Department of Justice (DOJ or Department) proposes to develop a new system of records titled National Law Enforcement Accountability Database, JUSTICE/DOJ–022. The Department proposes to establish this system of records to promote new and strengthened practices in the hiring, promotion, and retention of law enforcement officers. On May 25, 2022, the President issued an Executive Order, *Advancing Effective, Accountable Policing and Criminal Justice Paractices to Enhance Public Trust and Public Safety* (the ''Executive Order''). Section 5 of the Executive Order directs the Attorney General to establish a National Law Enforcement Accountability Database (the ''NLEAD'') documenting instances of law enforcement officer misconduct, commendations, and awards. The Attorney General shall also ensure that the NLEAD is consistent with all applicable laws, including the Privacy Act, and respects appropriate due process protections for law enforcement officers.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to submit comments. Please submit any comments by January 2, 2024.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, Two Constitution Square, 145 N St. NE, Suite 8W–300, Washington, DC 20530; by facsimile at 202–307–0693; or by email at *privacy.compliance@usdoj.gov.* To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Brian Merrick, Deputy Director, Service Delivery Staff, United States Department of Justice, Justice Management Division, Two Constitution Square, 145 N St. NE, Suite 4W–202, Washington, DC 20530; *Brian.Merrick@usdoj.gov,* 202–514–0070.

SUPPLEMENTARY INFORMATION: In Executive Order 14074, the President declared a policy that strives to ''strengthen public safety and the bonds of trust between law enforcement and the community and build a criminal justice system that respects the dignity and equality of all in America.'' As explained in the Executive Order, one of the many ways to advance that policy is to ''commit to new practices in law enforcement recruitment, hiring, promotion, and retention, as well as training, oversight, and accountability.'' In furtherance of these goals, Section 5 of the Executive Order directs the Attorney General to establish the NLEAD for official records documenting law enforcement officer misconduct, commendations, and awards. Section 5 provides that the NLEAD include, to the maximum extent permitted by law, the following categories of records documenting: criminal convictions; suspension of a law enforcement officer's enforcement authorities, such as de-certification; terminations; civil judgments related to official duties, including amounts if publicly available; resignations or retirements while under investigation for serious misconduct;

and sustained complaints or records of disciplinary action based on findings of serious misconduct. The NLEAD shall also include official records documenting officer commendations and awards, as the Attorney General deems appropriate.

Pursuant to Section 5(e) of the Executive Order, the NLEAD shall be used, as appropriate and consistent with applicable law, in the hiring, job assignment, and promotion of Federal law enforcement officers, as well as in the screening of State, Tribal, local, and territorial law enforcement officers who participate in programs or activities controlled by Federal law enforcement agencies, such as joint task forces or international training and technical assistance programs, including programs managed by the Department of State and the DOJ. State, Tribal, local, and territorial law enforcement agencies are encouraged to contribute to and use the NLEAD in a manner consistent with applicable law.

The Department proposes to establish the NLEAD system of records to fulfill the mandate of the Executive Order and facilitate new and strengthened hiring practices while protecting the safety, privacy, and due process rights of law enforcement officers who may be identified in the NLEAD.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records.

Dated: November 20, 2023.

Peter A. Winn,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

JUSTICE/DOJ–022

SYSTEM NAME AND NUMBER:

National Law Enforcement Accountability Database, JUSTICE/DOJ–022.

SECURITY CLASSIFICATION:

Controlled unclassified information.

SYSTEM LOCATION:

Records will be maintained by a Department-authorized cloud service provider and the records will be required to be maintained within the Continental United States. Records can be accessed from all locations at which DOJ System Managers operate or are supported, including the Two Constitution Square building, 145 N Street NE, Washington, DC 20530.

Some or all system information may be duplicated at other locations where the Department has granted direct access to support DOJ System Manager operations, system backup, emergency preparedness, and/or continuity of operations. For more specific information about the location of records maintained in this system of records, contact the system manager using the contact information listed in the ''SYSTEM MANAGER(S)'' paragraph, below.

SYSTEM MANAGER(S):

DOJ Chief Information Officer, (202) 514–3101, 145 N Street NE, Washington, DC 20530.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301; Executive Order 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters;* and Executive Order 14074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety.*

PURPOSE(S) OF THE SYSTEM:

Records in this system will be used by Federal law enforcement agencies to assess the loyalty, trustworthiness, suitability, and/or eligibility of an individual for hiring, job assignment, or promotion as a law enforcement officer, as well as the screening of State, Tribal, local and territorial law enforcement officers who participate in programs or activities over which Federal agencies exercise control, such as joint task forces or international training and technical assistance programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former law enforcement officers, including but not limited to full and part-time employees, detailees, and task force personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying information regarding the law enforcement officers in the Categories of Individuals above, including records, or indications of the existence of records, relating to: (i) criminal convictions; (ii) suspension of a law enforcement officer's enforcement authorities, such as de-certification; (iii) terminations; (iv) civil judgments, including amounts (if publicly available), related to official duties; (v) resignations or retirement while under investigation for serious misconduct; (vi) sustained complaints or records of disciplinary action based on findings of serious misconduct; and (vii) commendations and awards.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are individuals and entities at law enforcement agencies and the individuals listed in the Categories of Individuals above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(a) Designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, in connection with the hiring or continued employment of an employee or contractor, the conduct of a suitability or security investigation of an employee or contractor, or the grant, renewal, suspension, or revocation of a security clearance, to the extent that the information is relevant and necessary to the hiring agency's decision.

(b) Designated officers and employees of State or local (including the District of Columbia) law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer, to the extent that the information is relevant and necessary to the recipient agency's decision.

(c) Federal, State, local, or private entities where appropriate for purposes of certification of security clearances of participants in training, conferences, meetings, facility visits, and similar activities.

(d) To an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy or other threat, to the extent the information is relevant to the protection of life, health, or property. Information may be similarly disclosed to other recipients who share the same interests as the target or who may be able to assist in protecting against or responding to the activity or conspiracy.

(e) To appropriate officials and employees of a Federal agency for which the Department is authorized to

provide a service, when disclosed in accordance with an interagency agreement and when necessary to accomplish an agency function articulated in the interagency agreement.

(f) To any person(s) or appropriate Federal, State, Tribal, local, territorial, or foreign law enforcement authority authorized to assist in an approved investigation of or relating to the improper usage of DOJ information technologies, information systems, and/or networks.

(g) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, Tribal, local, territorial, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

(h) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

(i) To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat.

(j) To Federal, State, local, territorial, Tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(k) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, Tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

(l) To any person or entity that the Department has reason to believe possesses information regarding a matter within the jurisdiction of the Department, to the extent deemed to be necessary by the Department to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.

(m) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(n) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

(o) To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(p) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(q) To a former employee of the Department for purposes of: responding to an official inquiry by a Federal, State, or local governmental entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(r) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(s) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(t) To appropriate agencies, entities, and persons when: (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(u) To another Federal agency or entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(v) To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of the Department, and meeting related reporting requirements.

(w) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic storage media, in accordance with the safeguards mentioned below.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Data is retrieved by searching an individual's name, date of birth, and/or social security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Department is working with the National Archives and Records Administration to create a records retention and disposal schedule for records in the NLEAD.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is safeguarded in accordance with appropriate laws, rules, and policies, including the Department's automated systems security and access policies and Interconnection Security Agreements (ISAs) with Federal agency subscribers. Access to such information is limited to Department personnel, contractors, and other personnel who have an official need for access in order to perform their duties. Records are maintained in an access-controlled area, with direct access permitted to only authorized personnel. Electronic records are accessed only by authorized personnel with accounts on the Department's network. Additionally, direct access to certain information may be restricted depending on a user's role and responsibility within the organization

and system. Any electronic data that contains personally identifiable information will be encrypted in accordance with applicable National Institute of Standards and Technology standards when transferred between the Department and the subscriber agency.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system of records must be submitted in writing and comply with 28 CFR part 16, and should be sent by mail to the Justice Management Division, ATTN: FOIA Contact, Room 1111, Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, or by email at *JMDFOIA@usdoj.gov*. Correspondence should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought, and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury. While no specific form is required, requesters may obtain a form (Form DOJ–361) for certification of identity from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, or from the Department's website at *http://www.justice.gov/oip/forms/cert_ind.pdf*.

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR part 16 Subpart D, ''Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974.''

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the physical or electronic address indicated in the ''RECORD ACCESS PROCEDURES'' paragraph, above. All requests to contest or amend records must be in writing and the correspondence (and envelope or email subject line) should be clearly marked ''Privacy Act Amendment Request.'' All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

More information regarding the Department's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, ''Requests for Amendment or Correction of Records.''

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the ''RECORD ACCESS PROCEDURES'' paragraph, above.

HISTORY:

None.

[FR Doc. 2023–26073 Filed 11–30–23; 8:45 am]

BILLING CODE 4410–NW–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Authorization for Release of Medical Information—Mental Health

AGENCY: Office of the Pardon Attorney, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Office of the Pardon Attorney, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on September 28, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until January 2, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Kira Gillespie, Deputy Pardon Attorney, Office of the Pardon Attorney, 950 Pennsylvania Avenue NW, Main Justice—RFK Building, Washington, DC 20530; *kira.gillespie@usdoj.gov;* (202) 616–6073.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *Title of the Form/Collection:* Authorization for Release of Medical Information—Mental Health.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Pardon Attorney.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: Individuals or households.

Abstract: The information collected from the Authorizations for the Release of Medical Information—Mental Health

will primarily be used to make recommendations regarding executive clemency and ensure proper notification to the Federal Bureau of Investigation, U.S. Attorneys' Offices, U.S. Probation Offices, and federal courts in the event of grants of executive clemency. The Authorization for the Release of Medical Information—Mental Health will only be collected once per application for clemency.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 1,000 applicants.

7. *Estimated Time per Respondent:* Five minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 84 hours.

10. *Total Estimated Annual Other Costs Burden:* Approximately 700 applicants are expected to mail in the Authorization for the Release of Medical Information—Mental Health, incurring a $.63 postage fee for each submission. This results in a total estimated cost burden of $441. Applicants will not incur any capital, start-up, or system maintenance costs associated with this information collection.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: November 28, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–26429 Filed 11–30–23; 8:45 am]

BILLING CODE 4410–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of the Federal Unemployment Tax Act (FUTA) Credit Reductions Applicable for 2023

Sections 3302(c)(2)(A) and 3302(d)(3) of FUTA provide that employers in a state that has outstanding advances under Title XII of the Social Security Act on January 1 of two or more consecutive years are subject to a reduction in credits otherwise available against the FUTA tax for the calendar year in which the most recent such January 1 occurs, if advances remain on November 10 of that year. Further, section 3302(c)(2)(C) of FUTA provides for an additional credit reduction for a year if a state has outstanding advances on five or more consecutive January 1 and has a balance on November 10 for such years. Section 3302(c)(2)(C) provides for waiver of this additional credit reduction and substitution of the credit reduction provided in section 3302(c)(2)(B) if a state meets certain conditions.

California, Connecticut, Illinois, New York, and the US Virgin Islands (USVI) had outstanding advances on January 1 for two or more consecutive years and employers in these states were potentially subject to a FUTA credit reduction in 2023. However, Connecticut and Illinois repaid their outstanding advances before November 10, 2023. As a result, employers in these two states are not subject to a FUTA credit reduction for 2023. California and New York did not repay their outstanding advances before November 10, 2023. Therefore, employers in these states are subject to a FUTA credit reduction of 0.6 percent for 2023.

USVI has experienced outstanding advances on January 1 for many years. Employers in USVI were potentially liable for the additional credit reduction under section 3302(c)(2)(C) of FUTA. The jurisdiction applied for the waiver of this additional credit reduction and the Employment and Training Administration determined that USVI met each of the criteria necessary to qualify for the waiver of the additional credit reduction. Therefore, employers in USVI will have no additional credit reduction applied for calendar year 2023. However, because USVI has had an outstanding advance on each January 1 from 2010 through 2023, and maintained an outstanding balance on November 10, 2023, employers in USVI are subject to a FUTA credit reduction of 3.9 percent in 2023.

Lenita Jacobs-Simmons,

Deputy Assistant Secretary for Employment and Training Administration.

[FR Doc. 2023–26457 Filed 11–30–23; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Consumer Expenditure Surveys: Quarterly Interview and Diary

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 2, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Consumer Expenditure Surveys are used to gather information on expenditures, income, and other related subjects. These data are used to periodically update the national Consumer Price Index. In addition, the data are used by a variety of researchers in academia, government agencies, and the private sector. The data are collected from a national probability sample of households designed to represent the total civilian non-institutional population. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 18, 2023 (88 FRN 63977).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–BLS.

Title of Collection: Consumer Expenditure Surveys: Quarterly Interview and Diary.

OMB Control Number: 1220–0050.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 10,800.

Total Estimated Number of Responses: 46,648.

Total Estimated Annual Time Burden: 36,222 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2023–26455 Filed 11–30–23; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0013]

SolarPTL, LLC: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for SolarPTL, LLC as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–1911; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition for SolarPTL LLC (PTL). PTL's expansion covers the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition, as well as for an expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including PTL, which details that NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

PTL submitted an application, dated June 1, 2021 (OSHA–2010–0013–0005), to expand recognition as a NRTL to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA performed an on-site assessment related to this application on August 16–17, 2022, where OSHA found nonconformances with the requirements of 29 CFR 1910. PTL addressed the nonconformances adequately and OSHA has no objection to the addition of this standard to the NRTL scope of recognition.

OSHA published the preliminary notice announcing PTL's expansion application in the **Federal Register** on October 23, 2023 (88 FR 72794). The agency requested comments by November 7, 2023, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of PTL's NRTL scope of recognition.

To review copies of all public documents pertaining to PTL's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor at (202) 693–2350. Docket No. OSHA–2010–0013 contains all materials in the record concerning PTL's recognition. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 for assistance in locating docket submissions.

II. Final Decision and Order

OSHA staff examined PTL's expansion application, their capability to meet the requirements of the test standard, and other pertinent information. Based on its review of this evidence, OSHA finds that PTL meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant PTL's scope of recognition. OSHA limits the expansion of PTL's recognition to testing and certification of products for demonstration of conformance to the test standard shown below in Table 1.

TABLE 1—APPROPRIATE TEST STANDARD FOR INCLUSION IN PTL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 3703	Standard for Solar Trackers.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

A. Conditions

Recognition is contingent on continued compliance with 29 CFR 1910.7, including but not limited to,

abiding by the following conditions of recognition:

1. PTL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. PTL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. PTL must continue to meet the requirements for recognition, including all previously published conditions on PTL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of PTL as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–26456 Filed 11–30–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2021–0005]

LabTest Certification Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of LabTest Certification Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before December 18, 2023.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2021–0005). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before December 18, 2023 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that LabTest Certification Inc. (LCI), is applying for expansion of the current recognition as a NRTL. LCI requests the addition of nine test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including LCI, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

LCI currently has one facility (site) recognized by OSHA for product testing and certification, with the headquarters located at: LabTest Certification, Inc., 205—8291 92 Street, Delta, BC Canada V4G 0A4. A complete list of LCI's scope of recognition is available at *https://www.osha.gov/nationally-recognized-testing-laboratory-program/lci.*

II. General Background on the Application

LCI submitted an application dated March 8, 2022 (OSHA–2021–0005–0003), requesting the addition of ten test standards to the NRTL scope of

recognition. That application was updated on June 26, 2023 (OSHA–2021–0005–0004), to remove one standard from the original submission. This expansion will cover the remaining nine standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standards found in LCI's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN LCI'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 48	Electric Signs.
UL 508	Electric Industrial Control Equipment.
UL 508A	Industrial Control Panels.
UL 61010–1	Electrical Equipment for Measurement, Control and Laboratory Use; Part 1: General Requirements.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products.
NFPA 496	Purged and Pressurized Enclosures for Electrical Equipment.
UL 1203	Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations.

III. Preliminary Findings on the Application

LCI submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application files and pertinent documentation indicates that LCI can meet the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of these nine test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of LCI's application.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether LCI meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at *https://www.regulations.gov* under Docket No. OSHA–2021–0005 (for further information, see the ''*Docket*'' heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant LCI's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC.

James S. Frederick

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–26454 Filed 11–30–23; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 23–123]

Name of Information Collection: NASA STEM Gateway (Universal Registration and Data Management System)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by January 2, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Bill Edwards-Bodmer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, phone 757–864–7998, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Based on user feedback provided during the initial release of the NASA STEM Gateway (Universal Registration and Data Management System), NASA plans to develop updates/enhancements to improve information collected and the overall user experience in the NASA STEM Gateway. The NASA STEM Gateway (Universal Registration and Data Management System) is a comprehensive tool designed to allow learners (*i.e.,* students, educators, and awardee principal investigators) to apply to NASA STEM engagement opportunities (*e.g.,* internships, fellowships, challenges, educator professional development, experiential learning activities, etc.) in a single location. NASA personnel manage the selection of applicants and implementation of engagement opportunities within the NASA STEM Gateway. Additionally, NASA can also deploy evaluation surveys through the NASA STEM Gateway (Universal Registration and Data Management System) to collect short- and intermediate-outcome data by surveying learners (*i.e.,* students and educators) and awardees in NASA STEM engagement activities. Results from evaluation surveys information collected will be used by the NASA Office of STEM Engagement (OSTEM) to establish better defined goals, outcomes, and standards for measuring progress and to evaluate the outcomes of NASA's STEM Engagement programs and activities. This process of improvement will enhance NASA's strategic planning, performance planning, and performance reporting efforts as required by the GPRA Modernization Act of 2010 and Evidence-Based Policymaking Act of 2018.

II. Methods of Collection

Web-based.

III. Data

Title: Evaluation Surveys for NASA STEM Gateway.

OMB Number: 2700–0182.

Type of Review: Renewal of a previously approved information collection.

Affected Public: Individuals. Eligible students or educators, and/or awardee principal investigators who may voluntarily complete an evaluation survey as a result of applying to or participating in a STEM engagement opportunity (*e.g.,* challenges, educator professional development, experiential learning activities, etc.).

Estimated Annual Number of Activities: 10.

Estimated Number of Respondents per Activity: 2,000.

Annual Responses: 20,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 6,667.

Estimated Total Annual Cost: $214,744.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

William Edwards-Bodmer,

NASA PRA Clearance Officer.

[FR Doc. 2023–26408 Filed 11–30–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: National Endowment for the Humanities.

ACTION: Notice of charter renewal for Arts and Artifacts Indemnity Panel Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act and its implementing regulations, the Federal Council on the Arts and the Humanities (the Council) gives notice that the Charter for the Arts and Artifacts Indemnity Panel advisory committee was renewed for an additional two-year period on November 17, 2023. The Council determined that renewing the advisory committee is in the public interest in connection with the duties imposed on the Council by the Arts and Artifacts Indemnity Act, as amended.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 Seventh Street SW, Washington, DC 20506. Telephone: (202) 606–8322, facsimile (202) 606–8600, or email at *gencounsel@neh.gov.* Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

Dated: November 28, 2023.

Jessica Graves,

Paralegal Specialist, National Endowment for the Humanities.

[FR Doc. 2023–26446 Filed 11–30–23; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Request for Advance or Reimbursement Web Form

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this notice is to solicit comments concerning the web form used by IMLS awardees to request advance or reimbursement payments. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 31, 2024.

ADDRESSES: Send comments to Sandra Narva, Acting Director of Grants Policy

and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Narva can be reached by telephone: 202–653–4634 or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Julie Balutis, Senior Program Systems Analyst, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Balutis can be reached by telephone at 202–653–4645, or by email at *jbalutis@imls.gov.* Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comment that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

II. Current Actions

The purpose of this collection is to administer the IMLS process by which IMLS awardees request advance or reimbursement payments. The proposed form will be embedded in the Electronic Grants Management System that the agency uses to monitor and service all active awards during the period of performance and through closeout.

Agency: Institute of Museum and Library Services.

Title: Request for Advance or Reimbursement Web Form.

OMB Control Number: 3137–0124.

Agency Number: 3137.

Respondents/Affected Public: IMLS financial assistance awardees.

Total Estimated Number of Annual Respondents: TBD.

Frequency of Response: TBD.

Average Minutes per Response: TBD.

Total Estimated Number of Annual Burden Hours: TBD.

Cost Burden (dollars): TBD.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: November 28, 2023.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2023–26497 Filed 11–30–23; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: 2028–2032 IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments related to the 2028–2032 IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies instructions. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 31, 2024.

ADDRESSES: Send comments to Sandra Narva, Acting Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North, SW, Suite 4000, Washington, DC 20024–2135. Ms. Narva can be reached by telephone: 202–653–4634, or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Teri DeVoe, Associate Deputy Director for Grants to States, Office of Library Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North, SW, Suite 4000, Washington DC 20024–2135. Ms. DeVoe can be reached by telephone at 202–653–4778, or by email at *tdevoe@imls.gov*. Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of

information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit *www.imls.gov.*

II. Current Actions

This Notice proposes the clearance of the 2028–2032 IMLS Grants to States Program Five-Year State Plan Guidelines for State Library Administrative Agencies.

The Grants to States program is the largest grant program administered by IMLS, providing financial assistance to develop library services throughout the States, U.S. Territories, and the Freely Associated States. To receive funds under the Grants to States program, each established State Library Administrative Agency (SLAA) must submit to the Director of IMLS a Five-Year State Plan detailing certain goals, assurances, and procedures for a five-year period. 20 U.S.C. 9134(a). The upcoming five-year period will cover Federal fiscal years 2028–2032, with Five-Year State Plans due to IMLS on June 30, 2027. The Five-Year State Plan identifies a State's library needs, sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under the Library Services and Technology Act (LSTA), and provides assurances that the officially designated SLAA has the fiscal and legal authority and capability to administer all aspects of any award under the Grants to States program. 20 U.S.C. 9122(5). The Five-Year State Plan must also provide assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under the LSTA. 20 U.S.C. 9122(5).

Agency: Institute of Museum and Library Services.

Title: 2028–2032 IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies.

OMB Number: 3137–0029.

Agency Number: 3137.

Respondents/Affected Public: State Library Administrative Agencies.

Total Estimated Number of Annual Respondents: TBD.

Frequency of Response: Once every five years.

Estimated Average Burden per Response: TBD.

Estimated Total Annual Burden: TBD.

Cost Burden (dollars): TBD.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: November 28, 2023.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2023–26487 Filed 11–30–23; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Museums for All

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this notice is to solicit comments concerning an information collection from museums participating in the *Museums for All* program. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 31, 2024.

ADDRESSES: Send comments to Sandra Narva, Acting Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Narva can be reached by telephone: 202–653–4634 or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Helen Wechsler, Supervisory Grants Management Specialist, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Wechsler can be reached by telephone: 202–653–4779, or by email at *hwechsler@imls.gov.* Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comment that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

II. Current Actions

The purpose of this collection is to support a program to increase access to museums for underserved audiences through *Museums for All,* a voluntary program inviting museums to allow Electronic Benefit Transfer card holders to receive reduced-price admission to

their facilities. This information collection will obtain data from participating museums needed to administer the program, such as institution contact information and a staff person to administer the program. Additional information will be collected on a quarterly basis to assess the implementation of program components, the efficacy of program materials, and the impact of the program.

Agency: Institute of Museum and Library Services.

Title: Museums for All.

OMB Control Number: 3137–0089.

Agency Number: 3137.

Affected Public: Museums.

Total Estimated Number of Respondents: TBD.

Frequency of Response: TBD.

Average Minutes per Response: TBD.

Total Burden Hours: TBD.

Cost Burden (dollars): TBD.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: November 28, 2023.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2023–26496 Filed 11–30–23; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee

AGENCY: National Endowment for the Humanities.

ACTION: Notice of charter renewal for Humanities Panel Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act and its implementing regulations, the National Endowment for the Humanities (NEH) gives notice that the Charter for the Humanities Panel advisory committee was renewed for an additional two-year period on November 17, 2023. The Chair of NEH determined that the renewal of the Humanities Panel is necessary and in the public interest in connection with the performance of duties imposed upon the Chair of NEH by the National Foundation on the Arts and the Humanities Act of 1965, as amended.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 Seventh Street SW, Washington, DC 20506. Telephone: (202) 606–8322, facsimile (202) 606–8600, or email at *gencounsel@neh.gov.* Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

Dated: November 28, 2023.

Jessica Graves,

Paralegal Specialist, National Endowment for the Humanities.

[FR Doc. 2023–26447 Filed 11–30–23; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: The meeting was noticed on November 28, 2023, at 88 FR 83164–65.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, November 29, 2023, from 10:00 a.m.–5:20 p.m. and Thursday, November 30, 2023, from 8:30 a.m.–2:05 p.m. Eastern.

CHANGES IN THE MEETING: There are changes to two sessions on Wednesday, November 29, and one session on Thursday, November 30, 2023.

November 29, 2023

Original

Closed Session: 2:55–4:35 p.m.

- NSF SAHPR Update
- SAHPR-related Statement and Discussion with NSB
- Vote to move into Executive Plenary Closed

Closed (Executive) Session: 4:35–5:20 p.m.

- NSB/NSF Discussion of SAHPR-related Statement

Updated

Closed Session: 2:55–4:50 p.m.

- NSF SAHPR Update
- SAHPR-related Statements and Discussion with NSB
- Vote to move into Executive Plenary Closed

Closed (Executive) Session: 4:50–5:30 p.m.

- NSB/NSF Discussion of SAHPR-related Statements

November 30, 2023

Original

Open Session: 8:30–9:50 a.m.

- NSB Chair's Opening Remarks
- Presentation and Discussion, Office of the Chief Diversity and Inclusion Officer, Charles Barber
- NSB Committee Reports
  - Committee on Awards and Facilities Next Generation Very Large Array
  - Committee on Oversight
  - NSB–NSF Commission on Merit Review

Updated

Open Session: 9:15–9:50 a.m.

- NSB Chair's Opening Remarks
- NSB Committee Reports
  - Committee on Awards and Facilities Next Generation Very Large Array
  - Committee on Oversight
  - NSB–NSF Commission on Merit Review

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, *cblair@nsf.gov,* 703/292–7000.

Ann E. Bushmiller,

Senior Legal Counsel to the National Science Board.

[FR Doc. 2023–26549 Filed 11–29–23; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 99902052; NRC–2023–0143]

NuScale Power, LLC; Carbon Free Power Project, LLC; Carbon Free Power Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Limited work authorization application; withdrawal by applicant; cancellation of notice of hearing and opportunity to request a hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Carbon Free Power Project, LLC (CFPP), and NuScale Power, LLC (NuScale), dated November 10, 2023, to withdraw a limited work authorization (LWA) application and an associated exemption request which had sought to conduct certain early construction activities at the CFPP site at the Idaho National Laboratory, near Idaho Falls, Idaho.

DATES: The effective date of the withdrawal of the LWA application is November 13, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0143 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2023–0143. Address

questions about Docket IDs to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Omid Tabatabai, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6616; email: *Omid.Tabatabai@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 31, 2023, CFPP and NuScale submitted an LWA application and an exemption request, respectively, to obtain the NRC's approval to conduct certain early construction activities prior to their submittal of an application for and receipt of a combined license to construct and operate a 6-module nuclear power plant of NuScale's US460 design at the Idaho National Laboratory (ADAMS Package Accession No. ML23212A007 and ADAMS Accession No. ML23212A003).

On September 6, 2023, upon acceptance and docketing of the LWA application, the NRC issued a **Federal Register** notice, ''Notice of Acceptance for Docketing; Request for Comment,'' (88 FR 62408; September 11, 2023), to request comments from members of the public on the LWA application. On October 3, 2023, the NRC issued a further **Federal Register** notice, ''Notice of Hearing; Opportunity to Request a Hearing and Petition for Leave to Intervene; Order Imposing Procedures,'' (88 FR 68167), which announced, in part, that a hearing will be held and providing an opportunity for members of the public to request a hearing and petition for leave to intervene on the LWA application by December 4, 2023.

In a letter dated November 10, 2023, CFPP and NuScale, in accordance with section 2.107 of title 10 of the *Code of Federal Regulations,* requested termination of NRC's consideration of and the withdrawal of the LWA application and exemption request (ADAMS Accession No. ML23317A110). Additionally, NuScale requested to withdraw topical reports associated with the CFPP combined license application that had been submitted to the NRC for review. On November 16, 2023, NuScale submitted a follow-up letter requesting that the NRC staff suspend its review of an associated white paper and that the NRC staff provide the readiness assessment closure letter with a summary of the NRC staff's observations and feedback (ADAMS Accession No. ML23320A094).

On November 17, 2023, the NRC staff informed NuScale and CFPP that the NRC staff has terminated its review of the LWA application and other referenced submittals associated with CFPP's combined license application (ADAMS Accession No. ML23319A056). In view of the CFPP's termination, the NRC has granted the applicant's request to withdraw its LWA application, exemption request, topical reports, and white paper referenced in the NuScale and CFPP's November 10 and 16 letters, and has terminated its review of those submittals. Accordingly, the NRC is canceling the **Federal Register** notice of hearing and opportunity to request a hearing and petition for leave to intervene, published at 88 FR 68167, due to the withdrawal of the LWA application. No adjudicatory proceedings will be held by the NRC with respect to the withdrawn LWA application.

Dated: November 28, 2023.

For the Nuclear Regulatory Commission.

Omid Tabatabai-Yazdi,

Senior Project Manager, New Reactor Licensing Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–26435 Filed 11–30–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0212]

Information Collection: NRC Form 5, Occupational Dose Record for a Monitoring Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 5, ''Occupational Dose Record for a Monitoring Period.''

DATES: Submit comments by January 2, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0212 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0212.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For

problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement and NRC Form 5 are available in ADAMS under Accession Nos. ML23318A429 and ML23318A428.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 5, ''Occupational Dose Record for a Monitoring Period.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 30, 2023, 88 FR 59949.

1. *The title of the information collection:* NRC Form 5, Occupational Dose Record for a Monitoring Period.
2. *OMB approval number:* 3150–0006.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 5.
5. *How often the collection is required or requested:* Annually.
6. *Who will be required or asked to respond:* NRC licensees who are required to comply with part 20 of title 10 of the *Code of Federal Regulations* (10 CFR).
7. *The estimated number of annual responses:* 4,656 (252 reporting + 4,404 recordkeepers).
8. *The estimated number of annual respondents:* 4,404.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 109,060 (7,560 reporting + 101,500 recordkeeping).
10. *Abstract:* NRC Form 5 is used to record and report the results of individual monitoring for occupational radiation exposure during a monitoring period (one calendar year) to ensure regulatory compliance with annual radiation dose limits specified in 10 CFR 20.1201.

Dated: November 28, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–26424 Filed 11–30–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of December 4, 11, 18, 25, 2023 and January 1, 8, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of December 4, 2023

There are no meetings scheduled for the week of December 4, 2023.

Week of December 11, 2023—Tentative

Tuesday, December 12, 2023

10:00 a.m. Discussion of the Administration's Short- and Long-term Domestic, Uranium Fuel Strategy (Public Meeting) (Contact: Haile Lindsay: 301–415–0616)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, December 14, 2023

10:00 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (Public Meeting) (Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of December 18, 2023—Tentative

There are no meetings scheduled for the week of December 18, 2023.

Week of December 25, 2023—Tentative

There are no meetings scheduled for the week of December 25, 2023.

Week of January 1, 2024—Tentative

There are no meetings scheduled for the week of January 1, 2024.

Week of January 8, 2024—Tentative

There are no meetings scheduled for the week of January 8, 2024.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: November 29, 2023.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2023–26560 Filed 11–29–23; 4:15 pm]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before January 30, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Campus Ambassadors Exit Survey.

OMB Control Number: 0420–***.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation To Reply: Voluntary.

Burden to the Public:

Estimated Burden (hours) of the Collection of Information:

a. *Number of Respondents:* 85,917.

b. *Frequency of Response:* 1 time.

c. *Completion Time:* 20 minutes.

d. *Annual Burden Hours:* 28,197 hours.

General Description of Collection: Peace Corps Campus Ambassadors are university students who work closely with Peace Corps recruiters to raise the Peace Corps' profile on campus and introduce the Peace Corps to new and diverse student groups. The program, managed by the Peace Corps' Office of University Programs, is made in formal partnership with educational institutions across the United States. The Office of University Programs requires each Campus Ambassador to complete an annual survey to ensure they are meeting the requirements agreed upon in their application. Collection of this information allows the Peace Corps Office of University Programs to ensure the Campus Ambassadors are meeting the requirements of the program to assist recruiters. Although this collection is called an ''Exit Survey'' no statistical methods are employed.

Request for Comment: The Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on November 22, 2023.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2023–26154 Filed 11–30–23; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before January 30, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Annual Coverdale Fellows Census.

OMB Control Number: 0420–***.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation To Reply: Voluntary.

Burden to the Public:

Estimated Burden (Hours) of the Collection of Information:

a. *Number of Respondents:* 223.

b. *Frequency of Response:* 1 time.

c. *Completion Time:* 15 minutes.

d. *Annual Burden Hours:* 55.75 hours.

General Description of Collection: The Paul D. Coverdell Fellows program is a graduate school benefit for returned Peace Corps Volunteers (RPCVs). The program, managed by the Peace Corps Office of University Programs, is made in formal partnership with graduate degree granting educational institutions across the United States. The partnering institutions are required to offer financial support to RPCVs who, in turn, complete substantive internships related to their program of study in underserved communities in the United States. The Office of University Programs requires each Coverdell Fellow partner university to submit an annual Census Report to ensure it is meeting the requirements agreed upon in its signed standard Memorandum of Agreement between the Peace Corps and the institution. Collection of this information allows the Peace Corps Office of University Programs to ensure the university is providing all the necessary benefits and support to the Fellows (RPCV graduate school students) enrolled in the program. Although this collection is called a ''Census Report'' no statistical methods are employed.

Request for Comment: The Peace Corps invites comments on whether the

proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on November 22, 2023.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2023–26157 Filed 11–30–23; 8:45 am]

BILLING CODE 6051–01–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service®.

ACTION: Notice of modified system of records.

SUMMARY: The United States Postal Service® (USPS) is proposing to modify three General Privacy Act Systems of Records (SOR) to support the development and implementation of a voluntary mentorship program and related applications to assist participating employees in achieving their individual personal and professional goals.

DATES: These revisions will become effective without further notice on January 2, 2024, unless responses to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*privacy@usps.gov*). To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *uspsprivacyfedregnotice@usps.gov*.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service is proposing revisions to three existing systems of records (SOR) to support the implementation of voluntary mentorship programs and related applications.

I. Background

The USPS is planning to implement voluntary mentorship programs to support professional growth and promote diversity, equity, inclusion, and accessibility, consistent with the Postal Service's Delivering for America plan. These mentorship programs will use an application process to select mentors and to match them with mentees. Mentors and mentees will also be asked to complete voluntary surveys to provide feedback on the program. In association with these mentorship programs, a new software application will also be implemented to help facilitate and maintain the mentorship program and assist mentors and mentees.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is proposing modifications to the following SORs:

USPS SOR 100.300, Employee Development and Training Records
- —One new Purpose, number 13
- —One new Category of Records, number 3
- —One new Retention and Disposal period, number 5
- —One new Category of Individuals
- —One new Notification Procedure

USPS SOR 550.100, Commercial Information Technology Resources—Applications
- —One new Purpose, number 12
- —Three new Categories of Records, numbers 12–14
- —One new Retention and Disposal period, number 12
- —One new Retrievability process, number 12

USPS SOR 550.200, Commercial Information Technology Resources—Administrative
- —One new Category of Records, number 118

III. Description of the Modified Systems of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions to this SOR has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect that this modified system of records will have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service proposes revisions included in this system of records presented in its entirety as follows:

SYSTEM NAME AND NUMBER:

USPS 100.300 Employee Development and Training Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Management training centers, Integrated Business Solutions Services Centers, other USPS facilities where career development and training records are stored, USPS Law Department and contractor sites.

SYSTEM MANAGER(S):

Vice President, Human Resources, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

Vice President, Organization Development, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 410, 1001, 1005, and 1206.

PURPOSE(S) OF THE SYSTEM:

1. To provide managers, supervisors, and training and development professionals with decision-making information for employee career development, succession planning, training, and assignment.

2. To make and track employee job assignments, to place employees in new positions, and to assist in career planning and training in general.

3. To provide statistics for personnel and workload management.

4. To provide employees with an online platform that supports individual and career development.

5. To facilitate voluntary information sharing through an enhanced employee profile tool that highlights individual education, knowledge and experience.

6. To provide employees with convenient and flexible online learning options.

7. To create a forum that promotes a culture for participation in voluntary career development activities and opportunities.

8. To create a readily available source of information about current employee talents, skills, and abilities.

9. To communicate with and provide notification to individuals about training assignments and requirements, both prior to and after effective date of employment or placement.

10. To facilitate communication between the Postal Service and

individual employees, new hires and applicants, including current and former employees.

11. To share relevant information and topics about the Postal Service with individual employees, new hires and applicants, including current and former employees.

12. To request and gather voluntary feedback from individual employees, new hires and applicants, including current and former employees.

13. To facilitate registration and participation in a voluntary mentorship program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, new hires and applicants. Individual employees that voluntarily participate in USPS-sponsored mentorship programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Employee information:* Name, Social Security Number, Employee Identification Number, phone number(s), SMS text message number, personal email address, demographic information, photograph, years of service, retirement eligibility, postal assignment information, work contact information, finance number(s), duty location, and pay location.

2. *Employee development and training information:* Records related to career development, work history, assessments, skills bank participation, USPS- and non-USPS-sponsored training, examinations, evaluations of training, and USPS lodging when a discrepancy report is filed against the student about unauthorized activities while occupying the room.

3. *Mentorship program applicant and participant information:* First and last name; current position; employing office; work telephone number(s); work email address; length of tenure with the USPS and in current position; participant role; agreement to participate; objectives, goals and/or expectations for participation; communication, meeting, and match preferences; interests/hobbies; and satisfaction survey results.

RECORD SOURCE CATEGORIES:

Employees; employees' supervisor or manager; and other systems of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 9. apply.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, digital files, and paper files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By employee name, Social Security Number, or Employee Identification Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Training records are retained 5 years. Training-related travel records are retained 1 year.

2. Records related to succession planning and individual development planning are retained 10 years.

3. Examination records are retained 1 year after employee separation.

4. Skills bank records are retained up to 2 years.

5. Mentorship Program participant records and satisfaction survey results will be retained for up to 2 years, after the end of the Fiscal Year program cycle. Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by mechanical locks, card key systems, or other physical access control methods.

The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedures below and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system must address inquiries to the facility head where currently or last employed. Headquarters employees must submit inquiries to Corporate Personnel Management, 475 L'Enfant Plaza SW, Washington, DC 20260.

Participants in the USPS Law Department Mentorship Program must submit inquiries to USPS Law Department, 475 L'Enfant Plaza SW, Washington, DC 20260.

Inquiries must include full name, Social Security Number or Employee Identification Number, name and address of facility where last employed, and dates of USPS employment.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j) and (k), USPS has established regulations at 39 CFR 266.9 that exempt records in this system depending on their purpose. The USPS has also claimed exemption from certain provisions of the Act for several of its other systems of records at 39 CFR 266.9. To the extent that copies of exempted records from those other systems are incorporated into this system, the exemptions applicable to the original primary system continue to apply to the incorporated records.

HISTORY:

August 18, 2021, 86 FR 46281; July 19, 2013, 78 FR 43247; June 17, 2011, 76 FR 35483; April 29, 2005, 70 FR 22516.

SYSTEM NAME AND NUMBER:

550.100 Commercial Information Technology Resources—Applications.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

All USPS facilities and contractor sites.

SYSTEM MANAGER(S):

For records of computer access authorizations: Chief Information Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S) OF THE SYSTEM:

1. To provide event registration services to USPS customers, contractors, and other third parties.

2. To allow task allocation and tracking among team members.

3. To allow users to communicate by telephone, instant-messaging, and email through local machine and web-based applications on desktop and mobile operating systems.

4. To share your personal image via your device camera during meetings and web conferences, if you voluntarily choose to turn the camera on, enabling virtual face-to-face conversations.

5. To provide for the creation and storage of media files, including video recordings, audio recordings, desktop recording, and web-based meeting recordings.

6. To provide a collaborative platform for viewing video and audio recordings.

7. To create limited use applications using standard database formats.

8. To review distance driven by approved individuals for accurate logging and compensation.

9. To develop, maintain, and share computer code.

10. To comply with Security Executive Agent Directive (SEAD) 3 requirements for self-reporting of unofficial foreign travel pertaining to covered individuals who have access to classified information or who hold a sensitive position.

11. To administer and maintain a secure board portal software that provides leadership with instant access to information they need before, during and after meetings, making board and committee interactions more efficient and productive by promoting collaboration and information sharing among USPS Board of Governors (BOG) and Executive Leadership Team (ELT).

12. To facilitate the software component of USPS-sponsored voluntary mentorship programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals with authorized access to USPS computers, information resources, and facilities, including employees, contractors, business partners, suppliers, and third parties.

2. Individuals participating in web-based meetings, web-based video conferencing, web-based communication applications, and web-based collaboration applications.

3. USPS Board of Governors, administrators, and USPS Executive Leadership Team.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Third-Party Information Records:* Records relating to non-Postal, third-party individuals utilizing an information system, application, or piece of software, including: Third-Party Name, Third Party Date Request, Third Party Free Text, Guest User Information.

2. *Collaboration Application Records:* Records relating to web-conferencing and web-collaboration applications, including; Collaborative Group Names, Collaborative Group IDs, Action Name, Number Of Actions Sent, Number Of Action Responses, Employee Phone Number, Collaborative Group Chat History, Profile Information, Collaborative Group Membership, Contacts, Project Owner, Project Creator, Event Start Time, Event Status, Event Organizer, Event Presenter, Event Producer, Event Production Type, Event Recording Setting, Total Number Of Event Media Viewings, Number Of Active Users, Number Of Active Users In Collaborative Groups, Number Of Active Collaborative Group Communication Channels, Number Of Messages Sent, Number Of Calls Participated In, Last Activity Date Of A User, Number Of Guest Users In A Collaborative Group, Event Name, Event Description, Event Start Date, Event End Date, Video Platform Group Name, Video Platform Group Email Alias, Video Platform Group Description, Video Platform Group Classification, Video Platform Group Access Level, Video Platform Channel Name, Video Platform Channel Description, Video Platform Channel Access, Video Platform Live Event Recording, Total Number Of Video Conferences, Add Room Member To Collaborative Group, Attachment Downloaded From Collaborative Group, Attachment Uploaded From Collaborative Group, Direct Message Started From Collaborative Group, Invite Sent From Collaborative Group, Message Edited From Collaborative Group, Message Posted In Collaborative Group, Remove Room Member From Collaborative Group, Room Created In Collaborative Group, Add Service Account Permission To Enterprise Collaborative Group, Remove Service Account Permission To Enterprise Collaborative Group, Added User To Enterprise Collaborative Group, Added User Role To Enterprise Collaborative Group, Removed User From Enterprise Collaborative Group, Request To Join Enterprise Collaborative Group, Approve Join Request From Enterprise Collaborative Group, Reject Join Request From Enterprise Collaborative Group, Invite User To Enterprise Collaborative Group, Accept Invitation For Enterprise Collaborative Group, Reject Invitation For Enterprise Collaborative Group, Revoke Invitation For Enterprise Collaborative Group, Join Enterprise Collaborative Group, Ban User Including With Moderation In Enterprise Collaborative Group, Unban User From Enterprise Collaborative Group, Add All Users In Domain For Enterprise Collaborative Group, Create Group In Enterprise Collaborative Group, Delete Group In Enterprise Collaborative Group, Create Namespace In Enterprise Collaborative Group, Delete Namespace In Enterprise Collaborative Group, Change Info Setting In Enterprise Collaborative Group, Add Info Setting In Enterprise Collaborative Group, Remove Info Setting In Enterprise Collaborative Group, Add Member Role In Enterprise Collaborative Group, Remove User Role In Enterprise Collaborative Group, Membership Expiration Added In Enterprise Collaborative Group, Membership Expiration Removed In Enterprise Collaborative Group, Membership Expiration Updated In Enterprise Collaborative Group, ACL Permission Changed In Collaborative Group, Collaborative Group Invitation Accepted, Join Request Approved, User Joined Collaborative Group, User Requested To Join Collaborative Group, Collaborative Group Basic Setting Changed, Collaborative Group Created, Collaborative Group Deleted, Collaborative Group Identity Setting Changed, Collaborative Group Info Setting Added, Collaborative Group Info Setting Changed, Collaborative Group Info Setting Removed, Collaborative Group New Member Restriction Changed, Collaborative Group Post Reply Settings Changed, Collaborative Group Spam Moderation Settings Changed, Collaborative Group Topic Setting Changed, Collaborative Group Message Moderated, User Posts Will Always Be Posted, User Added To Collaborative Group, User Banned From Collaborative Group, User Invitation Revoked From A Collaborative Group, User Invited To Collaborative Group, User Join Request Rejected From A Collaborative Group, User Reinvited To Collaborative Group, User Removed From Collaborative Group, Call Event Abuse Report Submitted, Call Event Endpoint Left, Call Event Livestream Watched, Individual Form Response, Form Respondent Email Address, Whiteboard Software Updated, Whiteboard Reboot Requested, Whiteboard Export Requested, Attachment Deleted, Attachment Uploaded, Note Content Edited, Note Created, Note Deleted, Note Permissions Edited.

3. *Communication Application Records:* Enterprise Social Network User Name, Enterprise Social Network User State, Enterprise Social Network User State Change Date, Enterprise Social

Network User Last Activity Date, Number Of Messages Posted By An Enterprise Social Network User In Specified Time Period, Number Of Messages Viewed By An Enterprise Social Network User, Number Of Liked Messages By An Enterprise Social Network User, Products Assigned To A Enterprise Social Network User, Home Network Information, External Network Information, External Network Name, External Network Description, External Network Image, Network Creation Date, Network Usage Policy, External Network User Name, External Network User Email Address, External Group Name, Number Of Users On A Network, Network ID, Live Event Video Links, Files Added Or Modified In Enterprise Social Network, Message ID, Thread ID, Message Privacy Status, Full Body Of Message, Chat User Action, Chat Room Member Added, Chat Attachment Downloaded, Chat Attachment Uploaded, Chat Room Blocked, Chat User Blocked, Chat Direct Message Started, Chat Invitation Accepted, Chat Invitation Declined, Chat Invitation Sent, Chat Message Edited, Chat Message Posted, Chat Room Member Removed, Chat Room Created.

4. *Multimedia Records:* Records relating to media associated with or originating from an information system, including; Video Platform User ID, Video Name, Videos Uploaded By User, Videos Accessed By User, Channels Created By User, User Group Membership, Comments Left By User On Videos, Screen Recordings, Video Transcript, Deep Search Captions, Video Metadata, Audio Metadata, Phone Number, Time Phone Call Started, User Name, Call Type, Phone Number Called To, Phone Number Called From, Called To Location, Called From Location, Telephone Minutes Used, Telephone Minutes Available, Charges For Use Of Telephone Services, Currency Of Charged Telephone Services, Call Duration, Call ID, Conference ID, Phone Number Type, Blocked Phone Numbers, Blocking Action, Reason For Blocking Action, Blocked Phone Number Display Name, Date And Time Of Blocking, Call Start Time, User Display Name, SIP Address, Caller Number, Called To Number, Call Type, Call Invite Time, Call Failure Time, Call End Time, Call Duration, Number Type, Media Bypass, SBC FQDN, Data Center Media Path, Data Center Signaling Path, Event Type, Final SIP, Final Vendor Subcode, Final SIP Phrase, Unique Customer Support ID.

5. *Limited Use Application Records:* Records relating to applications with a specific, limited use, including; Application Authoring Application Name, Application Authoring Application Author, Voice Search Text Strings, Miles Driven, Mileage Rates, Country Currency, Destination, Destination Classification, Car Make, Car Model, Working Hours, Total Number Of Monthly Drives, Total Number Of Monthly Miles, Total Number Of Personal Drives, Total Number Of Personal Drives, Users Allowed To Access Application, Application Authoring Application Security Settings, Total Number Of Cloud-Based Searches Performed, Total Number Of Cloud-Based Search Queries From Web Browsers, Total Number Of Cloud-Based Search Queries From Android Operating Systems, Total Number Of Cloud-Based Search Queries From iOS Operating Systems, Data Visualization Report Email Delivery Added, Data Visualization Asset Created, Data Visualization Data Exported, Data Visualization Asset Deleted, Data Visualization Report Downloaded, Data Visualization Asset Edited, Data Visualization Asset Restored, Data Visualization Report Email Delivery Stopped, Data Visualization Asset Trashed, Data Visualization Report Email Delivery Updated, Data Visualization Asset Viewed, Data Visualization Link Sharing Access Type Changed, Data Visualization Link Sharing Visibility Changed, Data Visualization User Sharing Permissions Changed.

6. *Development Records:* Records relating to applications used for the creation, sharing, or modification of software code, including: Data Repository User ID, Data Repository Password, Data Repository User Address, Data Repository Payment Information, Data Repository User First Name, Data Repository User Last Name, Data Repository Profile Picture, Data Repository Profile Biography, Data Repository Profile Location, Data Repository User Company, Data Repository User Preferences, Data Repository User Preference Analytics, Data Repository Transaction Date, Data Repository Transaction Time, Data Repository Transaction Amount Charged, Data Repository web pages Viewed, Data Repository Referring website, Data Repository Date Of web page Request, Data Repository Time Of web page Request, Data Repository User Commits, Data Repository User Commit Comment Body Text, Data Repository Pull Request Comment Body Text, Data Repository Issue Comment Body Text, Data Repository User Comment Body Text, Data Repository User Authentication, Language Of Device Accessing Data Repository, Operating System Of Device Accessing Data Repository, Application Version Of Device Accessing Data Repository, Device Type Of Device Accessing Data Repository, Device ID Of Device Accessing Data Repository, Device Model Of Device Accessing Data Repository, Device Manufacturer Of Device Accessing Data Repository, Browser Version Of Device Accessing Data Repository, Client Application Information Of Device Accessing Data Repository, Data Repository User Usage Information, Data Repository Transactional Information, Data Repository API Notification Status, Data Repository API Issue Status, Data Repository API Pull Status, Data Repository API Commit Status, Data Repository API Review Status, Data Repository API Label, Data Repository API User Account Signin Status, Data Repository API Schedule Status, Data Repository API Schedule List.

7. *Unofficial Foreign Travel Monitoring:* Records relating to covered individuals for the administration of the SEAD 3 program, including: Title, Name Of Traveler, Information Type: Pre-Travel And Post-Travel, Start Date Of Travel, End Date Of Travel, Carrier Of Transportation, Countries You Are Visiting, Passport Number, Passport Expiration Date, Names And Association Of Foreign National Travel Companions, Planned Foreign Contacts, Emergency Contact Name, Emergency Contact Phone Number, Emergency Contact Relationship, Post-Travel Questions Relating To Activity, Events, And Interactions.

8. *Cloud-Based Storage Records:* Records relating to activity within cloud-based storage systems, including: Number Of Files Made Publicly Available, Number Of Files Made Available With A Link, Number Of Files Shared With Domain Users, Number Of Files Shared With Domain Users Through Link, Number Of Files Shared With Users Outside Domain, Number Of Files Shared With User Or Group In Domain, Number Of Files Not Shared At All, Number Of Spreadsheet Documents Added, Number Of Text Documents Added, Number Of Presentation Documents, Number Of Form Documents Added, Number Of Other Files Added, Number Of Files Edited, Number Of Files Viewed, Number Of Files Added, Total Cloud Storage Space Used, Last Time Storage Accessed By User, Item Added To Folder, Item Approval Cancelled, Comment Added On Approval Of Item, Due Date Time Change Requested, Item Approval Requested, Reviewer Change Requested For Item Approval, Item Approval Reviewed, Document Copy Created,

Document Created, Document Deleted, Document Downloaded, Document Shared As Email Attachment, Document Edited, Label Applied, Label Value Changed, Label Removed, Item Locked, Item Moved, Item Previewed, Item Printed, Item Removed From Folder, Item Renamed, Item Restored, Item Trashed, Item Unlocked, Item Uploaded, Item Viewed, Security Update Applied To File, Security Update Applied To All Files In Folder, Publish Status Changed, Editor Settings Changed, Link Sharing Access Type Changed, Link Sharing Access Changed From Parent Folder, Link Sharing Visibility Changed, Link Sharing Visibility Changed From Parent Folder, Security Update Removed From File, Membership Role Changed, Shared Storage Settings Changed, Spreadsheet Range Enabled, User Sharing Permissions Changed, User Sharing Permissions Changed From Parent Folder, User Storage Updated, File Viewed, File Renamed, File Created, File Edited, File Previewed, File Printed, File Updated, File Deleted, File Uploaded, File Downloaded, File Shared.

9. *Email Application Records:* Records relating to regular use of email applications, including: Email Body Text, Email Metadata, Total Number Of Emails Sent, Total Number Of Emails Received, Total Number Of Emails Sent And Received, Last Time User Accessed Email Client Through A Post Office Protocol (POP) Mail Server, Last Time User Accessed Email Client Through An internet Message Access Protocol (IMAP) Mail Server, Last Time User Accessed Through Web-Based Server, Total Email Client Storage Space Used, Calendar Access Level(S) Changed, Calendar Country Changed, Calendar Created, Calendar Deleted, Calendar Description Changed, Calendar Location Changed, Calendar Time zone Changed, Calendar Title Changed, Calendar Notification Triggered, Calendar Subscription Added, Calendar Subscription Deleted, Calendar Event Created, Calendar Event Deleted, Calendar Event Guest Added, Calendar Event Guest Auto-Response, Calendar Event Guest Removed, Calendar Event Guest Response Changed, Calendar Event Modified, Calendar Event Removed From Trash, Calendar Event Restored, Calendar Event Start Time Changed, Calendar Event Title Modified, Successful Availability Lookup Of A Calendar Between Email Clients, Successful Availability Lookup Of Email Client Resource, Successful Email Client Resource List Lookup, Unsuccessful Availability Lookup Of A Calendar On Email Client, Unsuccessful Availability Lookup Of Email Client Resource, Unsuccessful Email Client Resource List Lookup.

10. *Web Browser Records:* Records relating to activity within a web browser, including: Web Browser Password Changed, Web Browser Password Reused, Malware Detected in Transferred Content for User, Sensitive Data Detected In Transferred Content, Unsafe website Visit Detected For User.

11. USPS Board of Governors name, email, and collaborative meeting records used to store meeting material such as presentations, briefing documents/memos, meeting minutes/notes, and responses to various board inquiries, presentation briefing documents, and memos.

12. *Mentorship Application Information:* Match Data Stored About A User, Program Membership Status, Program Eligibility, Program Enrollment Date, Program Participation Preference, Mentor/Mentee Capacity, Preferred Mentors, Accepting New Matches Status, Recommended Mentors, Declined Recommendation Reason, Active Mentor/Mentee/Peer Relationships, Relationship Start/End Date, User Who Requested The Relationship, Relationship Status, Action Item/Checklist Item Progress, Mentorship Agreements, Pairing Health, Mentor/Mentee/Peer Relationship Requests, Mentor/Mentee/Peer Relationship Extension Requests, Mentor/Mentee/Peer Request Introduction Notes, Mentor/Mentee/Peer Request Preferred Match Duration, Past Mentor/Mentee/Peer Relationships, Active Group Membership As A Mentor/Mentee/Peer, Group Name, Group Start/End Date, Group Status, Past Group Membership As A Mentor/Mentee/Peer

13. *Mentoring Session Data Stored for a User:* Status, Default Admin Agenda, Custom User Agenda.

Start/End Date Time, Mentee/Mentor Feedback, 1–4 Star Rating, Free Text Session Feedback, Private Session Notes, Shared Session Notes, User Booking Session, Session Calendar Event And Videoconferencing Details, Session Attendance, Session Topics.

14. *Program Survey Data Stored For A User:* Survey Status, Custom Admin Supplied Question Responses, Program Admin Data, Reporting Column Preferences, Program Admin Support Contact.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 9. apply. In addition:

(a) To appropriate agencies, entities, and persons when (1) the Postal Service suspects or has confirmed that there has been a breach of the system of records; (2) the Postal Service has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Postal Service (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Postal Service's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

RECORD SOURCE CATEGORIES:

Employees; contractors; customers; USPS Board of Governors.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

1. Records relating to third-parties are retrievable by name and email address.

2. Records relating to collaboration are retrievable by name, email address, and user ID.

3. Records relating to communication are retrievable by name, email address, and user ID.

4. Records pertaining to multimedia are retrievable by username and media title.

5. Records relating to application development are retrievable by user ID and application name.

6. Records relating to limited use applications are retrievable by name, email address, and user ID.

7. Records relating to Unofficial Foreign Travel Monitoring for covered individuals are retrievable by name.

8. Records relating to Cloud-based storage are retrievable by name, email address, and user ID.

9. Records relating to Email Applications are retrievable by name, email address, and user ID.

10. Records relating to Web Browsers are retrievable by name, email address, and user ID.

11. USPS Board of Governors secure board portal collaboration software data is retrievable by date, meeting information, committee name, and other session collaboration details.

12. Records relating to mentorship programs are retrievable by mentee name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Records relating to third parties are retained for twenty-four months.

2. Records relating to collaboration are retained for twenty-four months.

3. Records relating to communication are retained for twenty-four months.

4. Multimedia recordings are retained for twenty-four months.

5. Records relating to application development are retained for twenty-four months.

6. Records relating to limited use applications are retained for twenty-four months.

7. Records relating to Unofficial Foreign Travel Monitoring for covered individuals are retained for twenty-five years.

8. Records relating to Cloud-based storage are retained for twenty-four months.

9. Records relating to Email Applications are retained for twenty-four months.

10. Records relating to Web Browsers are retained for twenty-four months.

11. USPS Board of Governors secure board portal collaboration software data is retained up to twelve months from the close of the corresponding event.

12. Records relating to mentorship programs are retained for twenty-four months.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Computer access is limited to authorized personnel with a current security clearance, and physical access is limited to authorized personnel who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by encryption, mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure and USPS Privacy. Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Customers and employees wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the Chief Information Officer and Executive Vice President and include their name and address.

EXEMPTION(S) PROMULGATED FROM THIS SYSTEM:

None.

HISTORY:

May 11, 2021; 86 FR 25899; January 31, 2022; 87 FR 4957.

SYSTEM NAME AND NUMBER:

550.200 Commercial Information Technology Resources—Administrative.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

All USPS facilities and contractor sites.

SYSTEM MANAGER(S):

For records of computer access authorizations: Chief Information Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S) OF THE SYSTEM:

1. To provide active and passive monitoring and review of information system applications and user activities.

2. To generate logs and reports of information system application and user activities.

3. To provide a means of auditing commercial information system activities across applications and users.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals with authorized access to USPS computers, information resources, and facilities, including employees, contractors, business partners, suppliers, and third parties.

2. Individuals participating in web-based meetings, web-based video conferencing, web-based communication applications, and web-based collaboration applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *General Audit Log activities:* DateTime, IP Address, User Activity, User Item Accessed, Activity Detail, Object ID, Record Type, Client IP Address, CorrelationID, CreationTime, EventData, EventSource, ItemType, OrganizationID, UserAgent, USerKEy, UserType, Version, Workload.

2. *File and page activities:* Accessed file, Change retention label for a file, Deleted file marked as a record, Checked in file, Changed record status to locked, Changed record status to unlocked, Checked out file, Copied file, Discarded file checkout, Deleted file, Deleted file from recycle bin, Deleted file from second-stage recycle bin, Detected document sensitivity mismatch, Detected malware in file, Deleted file marked as a record, Downloaded file, Modified file, Moved file, Recycled all minor versions of file, Recycled all versions of file, Recycled version of file, Renamed file, Restored file, Uploaded file, Viewed page, View signaled by client, Performed search query.

3. *Folder activities:* Copied folder, Created folder, Deleted folder, Deleted folder from recycle bin, Deleted folder from second-stage recycle bin, Modified folder, Moved folder, Renamed folder, Restored folder.

4. *Cloud-based Enterprise Storage activities:* Created list, Created list column, Created list content type, Created list item, Created site column, Created site content type, Deleted list, Deleted list column, Deleted list content type, Deleted list item, Deleted site column, Deleted site content type, Recycled list item, Restored list, Restored list item, Updated list, Updated list column, Updated list content type, Updated list item, Updated site column, Updated site content type.

5. *Sharing and access request activities:* Added permission level to site collection, Accepted access request, Accepted sharing invitation, Blocked sharing invitation, Created access request, Created a company shareable link, Created an anonymous link, Created secure link, Deleted secure link, Created sharing invitation, Denied access request, Removed a company shareable link, Removed an anonymous link, Shared filer, folder, or site, Unshared file folder or site, Updated access request, Updated an anonymous link, Updated sharing invitation, Used a company shareable link, Used an anonymous link, Used secure link, User added to secure link, User removed from secure link, Withdrew sharing invitation.

6. *Synchronization activities:* Allowed computer to sync files, Blocked computer from syncing files, Downloaded files to computer, Downloaded file changes to computer, Uploaded files to document library, Uploaded file changes to document library.

7. *Site permissions activities:* Added site collection admin, Added user of group to Cloud-based Enterprise Storage group, Broke permission level inheritance, Broke sharing inheritance, Created group, Deleted group, Modified access request setting, Modified ''Members Can Share'' setting, Modified permission level on site collection, Modified site permissions, Removed site collection admin, Removed permission level from site collection, Removed user or group from Cloud-based Enterprise Storage group, Requested site admin permissions, Restored sharing inheritance, Updated group.

8. *Site administration activities:* Added allowed data location, Added exempt user agent, Added geo location admin, Allowed user to create groups, Cancelled site geo move, Changed a sharing policy, Changed deice access policy, Changed exempt user agents, Changed network access policy, Completed site geo move, Created Sent To connection, Created site collection, Deleted orphaned hub site, Deleted Sent To connection, Deleted site, Enabled document preview, Enabled legacy workflow, Enabled Office on Demand, Enabled result source for People Searched, Enabled RSS feeds, Failed site swap, Joined site to hub site, Registered hub site, Removed allowed data location, Removed geo location admin, Renamed site, Scheduled site rename, Scheduled site swap, Scheduled site geo move, Set host site, Set storage quota for geo location, Swapped site, Unjoined site from hub site, Unregistered hub site.

9. *Cloud-based Email Server mailbox activities:* Created mailbox item, Copied messages to another folder, User signed in to mailbox, Accessed mailbox items, Sent message using Send On Behalf permissions, Purged messages from mailbox, Moved messages to Deleted Items folder, Moved messages to another folder, Sent message using Send As permissions, Sent message, Updated message, Deleted messages from Deleted Items folder, New-InboxRule Create-InboxRule from email web application, Set-InboxRule Modify inbox rule from email web application, Update inbox rules from email web application, Added delegate mailbox permissions, Removed delegate mailbox permissions, Added permissions to folder, Modified permissions of folder, Removed permissions from folder, Added or removed user with delegate access to calendar folder, Labeled message as a record.

10. *Retention policy and retention level activities:* Created retention label, Created retention policy, Configured settings for a retention policy, Deleted retention label, Deleted retention policy, Deleted settings from a retention policy, Updated retention label, Updated retention policy, Updated settings for a retention policy, Enabled regulatory record option for retention labels.

11. *User administration activities:* Added user, Deleted user, Set license properties, Reset user password, Changed user password, Changed user license, Updated user, Set property that forces user to change password, Organization Signup, Organization Creation, User creation without organization, Password reset requested, Disable user, Login success, Login success reauthenticate, Login failure, Login failure reauthentication, Logout, User permission change, Role permission change, Environment permissions change, Create role, Edit role—add user, Edit role—remove user, Edit role—change external group mapping, Delete role.

12. *Enterprise User Administration group administration activities:* Added group, Updated group, Deleted group, Added member to group, Removed member from group.

13. *Application administration activities:* Added service principal, Removed a service principal from the directory, Set delegation entry, Removed credentials from a service principal, Added delegation entry, Added credentials to a service principal, Removed delegation entry.

14. *Role administration activities:* Added member to Role, Removed a user from a directory role, Set company contact information.

15. *Directory administration activities:* Added a partner to the directory, Removed a partner from the directory, Added domain to company, Removed domain from company, Updated domain, Set domain authentication, Verified domain, Updated the federation settings for a domain, Verified email verified domain, Turned on Enterprise Information Technology Account Administration sync, Set password policy, Set company information.

16. *eDiscovery activities:* Created content search, Deleted content search, Changed content search, Started content search, Stopped content search, Started export of content search, Started export report, Previewed results of content search, Purged results of content search, Started analysis of content search, Removed export of content search, Removed preview results of content search, Removed purse action performed on content search, Removed analysis of content search, Removed search report, Content search preview item listed, Content search preview item viewed, Content search preview item downloaded, Downloaded export of content search, Created search permissions filter, Deleted search permissions filter, Changed search permissions filter, Created hold in eDiscovery case, Deleted hold in eDiscovery case, Changed hold in eDiscovery case, Created eDiscovery case, Deleted hold in eDiscovery case, Changed hold in eDiscovery case, Created eDiscovery case, Deleted eDiscovery data, Changed hold in eDiscovery case, Added member to eDiscovery case, Removed member from eDiscovery case, Changed eDiscovery case membership, Created eDiscovery administrator, Deleted eDiscovery administrator, Changed eDiscovery administrator membership, Remediation action created, Item deleted using Remediation, Created workingset search, Updated workingset search, Deleted workingset search, Previewed workingset search, Document viewed, Document annotated, Document downloaded, Tag created, Tag edited, Tag deleted, Tag files, Tag job, Created review set, Added Cloud-based productivity software data, Added non-office data, Added data to another workingset, Added remediated data, Run algo job, Run export job, Run burn job, Run error remediation job, Run load comparison job, Updated case settings.

17. *eDiscovery system command activities:* Created content search, Deleted content search, Changed content search, Started content search, Stopped content search, created content search action, Deleted content search action, Created search permissions filter, Deleted search permissions filter, Changed search permissions filter, Created hold in eDiscovery case, Deleted hold in eDiscovery case, Changed hold in eDiscovery case, Created search query for eDiscovery case hold, Deleted search query for eDiscovery case hold, Changed search query for eDiscovery case hold, Created eDiscovery case, Deleted eDiscovery case, Changed eDiscovery case, Added member to eDiscovery case, Removed member from eDiscovery case, Changed eDiscovery case membership, Created eDiscovery administrator, Deleted eDiscovery administrator, Changed eDiscovery administrator membership.

18. *Data Analysis application activities:* Viewed program dashboard, Created program dashboard, Edited

program dashboard, Deleted program dashboard, Shared program dashboard, Printed program dashboard, Copied program dashboard, Viewed program tile, Exported program tile data, Viewed program report, Deleted program report, Printed program report page, Created program report, Edited program report, Copied program report, Exported program artifact to another file format, Export program activity events, Updated program workspace access, Restored program workspace, Updated program workspace, Viewed program metadata, Created program dataset, Deleted program dataset, Created program group, Deleted program group, Added program group members, Retrieved program groups, Retrieved program dashboard, Retrieved data sources from program dataset, Retrieved upstream data flows from program dataflow, Retrieved data sources from program dataflow, Removed program group members, Retrieved links between datasets and dataflows, Created organizational program content pack, Created program app, Installed program app, Updated program app, Updated organization's program settings, Started program trial, Started program extended trial, Analyzed program dataset, Created program gateway, Deleted program gateway, Added data source to program gateway, Removed data source from program gateway, Changed program gateway admins, Changed program gateway data source users, Set scheduled refresh on program dataset, Unpublished program app, Deleted organizational program content pack, Renamed program dashboard, Edited program dataset, Updated capacity display name, Changed capacity state, Updated capacity admin, Changed capacity user assignment, Migrated workspace to a capacity, Removed workspace from a capacity, Retrieved program workspaces, Shared program report, Generated program Embed Token, Discover program dataset data sources, Updated program dataset data sources, Requested program dataset refresh, Binded program dataset to gateway, Changed program dataset data sources, Requested program dataset refresh, Binded program dataset to gateway, Changed program dataset connections, Took over program dataset, Updated program gateway data source credentials, Imported file to program, Updated program dataset parameters, Generated program dataflow SAS token, Created program dataflow, Updated program dataflow, Deleted program dataflow, Viewed program dataflow, Exported program dataflow, Set scheduled refresh on program dataflow, Requested program dataflow refresh, Received program dataflow secret from Key Vault, Attached dataflow storage account, Migrated dataflow storage location, Updated dataflow storage assignment permissions, Set dataflow storage location for workspace, Took ownership of program dataflow, Canceled program dataflow refresh, Created program email subscription, Updated program email subscription, Deleted program email subscription, Created program folder, Deleted program folder, Updated program folder, Added program folder access, Deleted program folder access, Updated program folder access, Posted program comment, Deleted program comment, Analyzed program report, Viewed program usage metrics, Edited program dataset endorsement, Edited program dataflow endorsement, Edited program report endorsement, Edited program app endorsement, Retrieved list of modified workspaces in program tenant, Sent a scan request in program tenant, Retrieve scan result in program tenant, Inserted snapshot for user in program tenant, Updated snapshot for user in program tenant, Deleted snapshot for user in program tenant, Inserted snapshot for user in program tenant, Updated snapshot for user in program tenant, Deleted snapshot for user in program tenant, Retrieved snapshots for user in program tenant, Edited program certification permission, Took over a program data source, Updated capacity custom settings, Created workspace for program template app, Deleted workspace for program template app, Updated settings for program template app, Updated testing permissions for program template app, Created program template app, Deleted program template app, Promoted program template app, Installed program template app, Updated parameters for installed program template app, Created install ticker for installing program template app, Updated an organizational custom visual, Created an organizational custom visual, Deleted an organizational custom visual, Custom visual requested Enterprise Information Technology Account Administration access token, Customer visual requested Cloud-based productivity software access token, Connected to program dataset from external app, Created program dataset from external app, Deleted program dataset from external app, Edited program dataset from external app, Requested program dataset refresh from external app, Requested SAS token for program storage, Requested account key for program storage, Assigned a workspace to a deployment pipeline, Removed a workspace from a deployment pipeline, Deleted deployment pipeline, Created deployment pipeline, Deployed to a pipeline stage, Updated deployment pipeline configuration, Updated deployment pipeline access, Added external resource, Added link to external resource, Deleted link to external resource, Updated featured tables, Applied sensitivity label to program artifact, Changed sensitivity label for program artifact, Deleted sensitivity label from program artifact.

19. *Productivity Analysis activities:* Updated privacy setting, Updated data access setting, Uploaded organization data, Created meeting exclusion, Updated preferred meeting exclusion, Execute query, Canceled query, Deleted result, Downloaded report, Accessed Odata link, Viewed query visualization, Viewed explore, Created partition, Updated partition, Deleted partition, User logged in, User logged out.

20. *Briefing email activities:* Updated user privacy settings, Updated organization privacy settings.

21. *Cloud-based Collaboration Application activities:* Created team, Deleted team, Added channel, Deleted channel, Changed organization setting, Changed team setting, Changed channel setting, User signed in to Cloud-based Collaboration Application, Added members, Changed role of members, Removed members, Added bot to team, Removed bot from team, Added tab, Removed tab, Updated tab, Added connector, Removed connector, Updated connector, Downloaded analytics report, Upgraded Cloud-based Collaboration Application device, Blocked Cloud-based Collaboration Application device, Unblocked Cloud-based Collaboration Application device, Changed configuration of Cloud-based Collaboration Application device, Enrolled Cloud-based Collaboration Application device, Installed app, Upgraded app, Uninstalled app, Published app, Updated app, Deleted app, Deleted all organization apps, Performed action on card, Added scheduling group, Edited scheduling group, Deleted scheduling group, Added shift, Edited shift, Deleted shift, Added time off, Edited time off, Deleted time off, Added open shift, Edited open shift, Deleted open shift, Shared schedule, Clocked in using Time clock, Clocked out using Time clock, Started break using Time clock, Ended break using Time clock, Added Time clock entry, Edited Time clock entry, Deleted Time clock entry, Added shift request, Responded to shift request, Canceled shift request, Changed schedule setting,

Added workforce integration, Accepted off shift message.

22. *Cloud-based Collaboration Application approvals activities:* Created new approval request, Viewed approval request details, Approved approval request, Rejected approval request, Canceled approval request, Shared approval request, File attached to approval request, Reassigned approval request, Added e-signature to approval request.

23. *Enterprise Social Network activities:* Changed data retention policy, Changed network configuration, Changed network profile settings, Changed private content mode, Changed security configuration, Created file, Created group, Deleted group, Deleted message, Downloaded file, Exported data, Shared file, Suspended network user, Suspended user, Updated file description, Updated file name, Viewed file.

24. *Enterprise Customer Relationship Management activities:* Accessed out-of-box entity (deprecated), Accessed custom entity (deprecated), Accessed admin entity (deprecated), Performed bulk actions (deprecated), All Enterprise Customer Relationship Management activities, Accessed Enterprise Customer Relationship Management admin center (deprecated), Accessed internal management tool (deprecated), Signed in or out (deprecated), Activated process or plug-in (deprecated).

25. *Information Systems Infrastructure Automation activities:* Created flow, Edited flow, Deleted flow, Edited flow permissions, Deleted flow permissions, Started a Flow paid trial, Renewed a Flow paid trial.

26. *Application authoring program activities:* Created app, Edited app, Deleted app, Launched app, Published app, Marked app as Hero, Marked app as Featured, Edited app permission, Restored app version.

27. *Enterprise Automation DLP activities:* Created DLP Policy, Updated DLP Policy, Deleted DLP Policy.

28. *Video platform activities:* Created video, Edited video, Deleted video, Uploaded video, Downloaded video, Edited video permission, Viewed video, Shared video, Liked video, Unliked video, Commented on video, Deleted video comment, Uploaded video text track, Deleted video text track, Uploaded video thumbnail, Deleted video thumbnail, Replaced video permissions and channel links, Marked video public, Marked video private, Created Video platform group, Edited Video platform group, Deleted Video platform group, Edited Video platform group memberships, Created Video platform channel, Edited Video platform channel, Deleted a Video platform channel, Replaced Video platform channel thumbnails, Edited Video platform user settings, Edited tenant settings, Edited global role members, Deleted Video platform user, Deleted Video platform user's data report, Edited Video platform user, Exported Video platform user's data report, Downloaded Video platform user's data report, Video Platform Event Date, Video Platform Event Name, Video Platform Event Description, Video Platform Meeting Code, Video Platform Participant Identifiers.

29. *Content explorer activities:* Accessed item.

30. *Quarantine activities:* Previewed Quarantine message, Deleted Quarantine message, Released Quarantine message, Exported Quarantine message, Viewed Quarantine Message's header.

31. *Customer Key Service Encryption activities:* Fallback to Availability Key.

32. *Form application activities:* Created form, Edited form, Moved form, Deleted form, Viewed form, Previewed form, Exported form, Allowed share form for copy, Added form co-author, Removed form co-author, Viewed response page, Created response, Updated response, Deleted all responses, Deleted response, Viewed responses, Viewed response, Created summary link, Deleted summary link, Updated from phishing status, Updated user phishing status, Sent premium form product invitation, Updated form setting, Updated user setting, Listed forms.

33. *Sensitivity label activities:* Applied sensitivity label to site, Removed sensitivity label from site, Applied sensitivity label to file, Changed sensitivity label applied to file, Removed sensitivity label from file.

34. *Local machine communications platform system command activities:* Set tenant federation.

35. *Search activities:* Performed email search, Performed Cloud-based Enterprise Storage search.

36. *Security analytics activities:* Attempted to compromise accounts.

37. *Device activities:* Printed file, Deleted file, Renamed file, Created file, Modified file, Read file, Captured screen, Copied file to removable media, Copied file to network share, Copied file to clipboard, Uploaded file to cloud, File accessed by an unallowed application.

38. *Information barrier activities:* Removed segment from site, Changed segment of site, Applied segment to site.

39. *On-premises DLP scanning activities:* Matched DLP rule, Enforced DLP rule.

40. *Individual Productivity Analytics activities:* Updated user settings, Updated organization settings.

41. *Exact Data Match (EDM) activities:* Created EDM schema, Modified EDM schema, Removed EDM scheme, Completed EDM data upload, Failed EDM data upload.

42. *Enterprise Information System Information Protection activities:* Accessed file, Discovered file, Applied sensitivity label, Updated sensitivity label, Removed sensitivity label, Removed file, Applied protection, Changed protection, Removed protection, Received AIP heartbeat.

43. *Data Repository Team Discussion Post Actions:* Team Discussion Post Updated, Team Discussion Post Destroyed.

44. *Data Repository Team Discussion Post Reply Actions:* Team Discussion Post Reply Updated, Team Discussion Post Reply Destroyed.

45. *Data Repository Enterprise Actions:* Self-Hosted Runner Removed, Self-Hosted Runner Registered, Self-Hosted Runner Group Created, Self-Hosted Runner Group Removed, Self-Hosted Runner Removed From Group, Self-Hosted Runner Added To Group, Self-Hosted Runner Group Member List Updated, Self-Hosted Runner Group Configuration Changed, Self-Hosted Runner Updated.

46. *Data Repository Hook Actions:* Hook Created, Hook Configuration Changed, Hook Destroyed, Hook Events Altered.

47. *Data Repository Integration Installation Request Actions:* Integration Installation Request Created, Integration Installation Request Closed.

48. *Data Repository Issue Action:* Issue Destroyed.

49. *Data Repository Org Actions:* Secret Action Created, Member Creation Disabled, Two Factor Authentication Requirement Disabled, Member Creation Enabled, Two Factor Authentication Enabled, Member Invited, Self-Hosted Runner Registered, Secret Action Removed, Member Removed, Outside Collaborator Removed, Self-Hosted Runner Removed, Self-Hosted Runner Group Created, Self-Hosted Runner Group Removed, Self-Hosted Runner Group Updated, Secret Action Updated, Repository Default Branch Named Updated, Default Repository Permission Updated, Member Role Updated, Member Repository Creation Permission Updated.

50. *Data Repository Organization Label Actions:* Default Label Created, Default Label Updated, Default Label Destroyed.

51. *Data Repository Oauth Application Actions:* Oauth Application

Created, Oauth Application Destroyed, Oauth Application Secret Restet, Oauth Application Token Revoked, Oauth Application Transferred.

52. *Data Repository Profile Picture Actions:* Organization Profile Picture Updated.

53. *Data Repository Project Actions:* Project Board Created, Project Board Linked, Project Board Renamed, Project Board Updated, Project Board Deleted, Project Board Unlinked, Project Board Permissions Updated, Project Board Team Permissions Updated, Project Board User Permission Updated.

54. *Data Repository Protected Branch Actions:* Branch Protection Enabled, Branch Protection Destroyed, Branch Protection Enforced For Administrators, Branch Enforcement Of Required Code Owner Enforced, Stale Pull Request Dismissal Enforced, Branch Commit Signing Updated, Pull Request Review Updated, Required Status Check Updated, Requirement For Branch To Be Up To Date Before Merging Changed, Branch Update Attempt Rejected, Branch Protection Requirement Overridden, Force Push Enabled, Force Push Disabled, Branch Deletion Enabled, Branch Deletion Disabled, Linear Commit History Enabled, Linear Commit History Disabled.

55. *Data Repository Repo Actions:* User Visibility Changed, Actions Enabled For Repository, Collaboration Member Added, Topic Added To Repository, Repository Archived, Anonymous Git Read Access Disabled, Anonymous Git Read Access Enabled, Anonymous Git Read Access Setting Locked, Anonymous Git Read Access Setting Unlocked, New Repository Created, Secret Created For Repository, Repository Deleted, Repository Enabled, Secret Removed, User Removed, Self-Hosted Runner Registered, Topic Removed From Repository, Repository Renamed, Self-Hosted Runner Updated, Repository Transferred, Repository Transfer Started, Repository Unarchived, Secret Action Updated.

56. *Data Repository Dependency Graph Actions:* Dependency Graph Disabled, Dependency Graph Disabled For New Repository, Dependency Graph Enabled, Dependency Graph Enabled For New Repository.

57. *Data Repository Secret Scanning Actions:* Secret Scanning Disabled For Individual Repository, Secret Scanning Disabled For All Repositories, Secret Scanning Disabled For New Repositories, Secret Scanning Enabled For Individual Repository, Secret Scanning Enabled For All Repositories, Secret Scanning Enabled For New Repositories.

58. *Data Repository Vulnerability Alert Actions:* Vulnerable Dependency Alert Created, Vulnerable Dependency Alert Dismissed, Vulnerable Dependency Alert Resolved.

59. *Data Repository Team Actions:* Member Added To Team, Repository Added To Team, Team Parent Changed, Team Privacy Level Changed, Team Created, Member Demoted In Team, Team Destroyed, Member Promoted In Team, Member Removed From Team, Repository Removed From Team.

60. *Data Repository Team Discussion Actions:* Team Discussion Disabled, Team Discussion Enabled.

61. *Data Repository Workflow Actions:* Workflow Run Cancelled, Workflow Run Completed, Workflow Run Created, Workflow Run Deleted, Workflow Run Rerun, Workflow Job Prepared.

62. *Data Repository Account Actions:* Billing Plan Change, Plan Change, Pending Plan Change, Pending Subscription Change.

63. *Data Repository Advisory Credit Actions:* Accept Credit, Create Credit, Decline Credit, Destroy Credit.

64. *Data Repository Billing Actions:* Change Billing Type, Change Email.

65. *Data Repository Bot Alerts Actions:* Disable Bot, Enable Bot.

66. *Data Repository Bot Alerts for New Repository Actions:* Disable Alerts, Enable Alerts.

67. *Data Repository Bot Security Alerts for Update Actions:* Disable Security Update Alerts, Enable Security Update Alerts.

68. *Data Repository Bot Security Alerts for New Repository Actions:* Disable New Repository Security Alerts, Enable New Repository Security Alerts.

69. *Data Repository Environment Actions:* Create Actions Secret, Delete, Remove Actions Secret, Update Actions Secret.

70. *Data Repository Git Actions:* Clone, Fetch, Push.

71. *Data Repository Marketplace Agreement Signature Actions:* Create.

72. *Data Repository Marketplace Listing Actions:* Approve, Create, Delist, Redraft, Reject.

73. *Data Repository Members Can Create Pages Actions:* Enable, Disable.

74. *Data Repository Organization Credential Authorization Actions:* Security Assertion Markup Language Single-Sign On Authorized, Security Assertion Markup Language Single-Sign On Deauthorized, Authorized Credentials Revoked.

75. *Data Repository Package Actions:* Package Version Published, Package Version Deleted, Package Deleted, Package Version Restored, Package Restored.

76. *Data Repository Payment Method Actions:* Payment Method Cleared, Payment Method Created, Payment Method Updated.

77. *Data Repository Advisory Actions:* Security Advisory Closed, Common Vulnerabilities And Exposures Advisory Requested, Data Repository Security Advisory Made Public, Data Repository Security Advisory Withdrawn, Security Advisory Opened, Security Advisory Published, Security Advisory Reopened, Security Advisory Updated.

78. *Data Repository Content Analysis:* Data Use Settings Enabled, Data Use Settings Disabled.

79. *Data Repository Sponsors Actions:* Repo Funding Link Button Toggle, Repo Funding Links File Action, Sponsor Sponsorship Cancelled, Sponsor Sponsorship Created, Sponsor Sponsorship Preference Changed, Sponsor Sponsorship Tier Changed, Sponsored Developer Approved, Sponsored Developer Created, Sponsored Developer Profile Updated, Sponsored Developer Request Submitted For Approval, Sponsored Developer Tier Description Updated, Sponsored Developer Newsletter Sent, Sponsored Developer Invited From Waitlist, Sponsored Developer Joined From Waitlist.

80. *Administrator audit log events:* Admin privileges grant, Group events, Marketplace login audit change, Auto provisioning automatically disabled.

81. *Group enterprise audit log events:* Add service account permission, Remove service account permission, Add user, Add user role, Remove user, Request to join, Approve join request, Reject join request, Invite user, Accept invitation, Reject invitation, Revoke invitation, Join, Ban user including with moderation, Unban user, Add all users in domain, Create group, Delete group, Create namespace, Delete namespace, Change info setting, Add info setting, Remove info setting, Add member role, Remove user role, Membership expiration added, Membership expiration removed, Membership expiration updated.

82. *Software vendor employee interaction events:* Event date, Software product name, Software vendor employee email, Software vendor employee home office location, Software vendor employee access justification, Justification tickets, Log ID, Software product resource accessed name.

83. *Login events:* Two-step verification enabled, Two-step verification disabled, Account password change, Account recovery email change, Account recovery phone change, Account recovery secret question

change, Account recovery secret answer change, Advanced Protection enroll, Advanced Protection unenroll, Failed login, Government-backed attack attempt, Leaked password detected, Login challenged, Login verification, Logout, Out of domain email forwarding enabled, Successful login, Suspicious Login, Suspicious login blocked, Suspicious login from less secure app blocked, Suspicious programmatic login locked, User suspended, User suspended through spam relay, User suspended through spam, User suspended through suspicious activity.

84. *OAuth Token audit log events:* OAuth event description, OAuth event name, OAuth user, OAuth application name, OAuth client ID, OAuth scope, OAuth event data, OAuth logged activity IP address.

85. *Rules audit log events:* Rule event name, Rule event description, Rule triggering user, Rule name, Rule type, Rule resource name, Resource ID, Resource title, Resource type, Resource owner, Recipients, Data source, Actor IP address, Rule severity, Scan type, Matched trigger, Matched detectors, Triggered actions, Suppressed actions, Date, Device ID, Device type.

86. *SAML audit log events:* SAML event description, SAML Event name, SAML triggering user, SAML application name, SAML user organization name, Initiated by, Failure type, Response status, Second level status, SAML logged activity IP address, SAML event date.

87. *Calendar application audit log events:* Activity name, Activity description, Calendar user, Calendar ID, Event title, Event ID, User agent, Recipient email, Message ID, Remote Exchange Web Server URL, Error code, Requested window start, Requested window end, Date, Calendar logged activity IP address.

88. *Context-Aware Access audit log events:* Event name, Context-Aware access user, Context-Aware access logged activity IP address, Device ID, Access level applied, Context-Aware access event date.

89. *Web browser audit log events:* Web browser event name, Web browser event date, Web browser event reason, Device name, Device user, Web browser profile user name, URL generating event, Operating System of Web Browser, Web browser triggered rule reason, Web browser event result, Web browser content name, Web browser content size, Web browser content hash, Web browser content type, Web browser trigger type, Web browser trigger user, Web browser user agent, Web browser client type.

90. *Data Visualization audit log events:* Asset name, Event description, User, Event name, Date, Asset type, Owner, Asset ID, IP address, Connector type, visibility, Prior visibility.

91. *Devices audit log events:* Device ID, Event description, Date, Event name, User, Device type, Application hash, Serial number, Device model, OS version, Policy name, Policy status code, Windows OS edition, Account registration change, Device action event, Device application change, Device compliance status, Device compromise, Device OS update, Device ownership, Device settings change, Device status changed on Apple portal, Device sync, Failed screen unlock attempts, Sign out user, Suspicious activity, Work profile support.

92. *Cloud-based web storage application audit log events:* Cloud-based web storage application event name, Cloud-based web storage application event description, Cloud-based web storage application item type, Cloud-based web storage application item ID, Cloud-based web storage application item visibility, Cloud-based web storage application item prior visibility, Cloud-based web storage application user, Cloud-based web storage application visitor Boolean value, Cloud-based web storage application file owner, Cloud-based web storage application event date, Cloud-based web storage application event IP address.

93. *Groups audit log events:* Groups event name, Groups event description, Groups event user, Groups event date.

94. *Chat audit log events:* Chat event name, Chat event description, Chat event user, Chat event date.

95. *Whiteboard application audit log events:* Whiteboard application ID Whiteboard application event description, Whiteboard application event name, Whiteboard application event user, Whiteboard application event date.

96. *Note application audit log events:* Note application event name, Note application event description, Note application event user, Note application event note owner, Note application event date, Note application note URI, Note application attachment URI.

97. *Password vault audit log events:* Password vault actor, Password vault event timestamp, Password vault event name, Password vault application username, Password vault application installation name, Password vault application credential name.

98. *Takeout audit log events:* Takeout event description, Takeout products requested, Takeout Job ID, Takeout event date, Takeout event IP address.

99. *User accounts audit log events:* User account event description, User account event date, User account event IP address, two-step verification disable, two-step verification enroll, Account password change, Account recovery email change, Account recovery phone change, Account recovery secret question change, Account recovery secret answer change.

100. *Voice audit log events:* Voice event name, Voice event description, Voice event date, Voice event user, Voice receiving phone number, Voice placing phone number, Voice call duration, Voice group message status, Voice call cost, Auto Attendant couldn't route to voicemail recipient, Auto attendant deleted, Auto attendant failed to transfer to a user, Auto attendant published, Auto attendant received a voicemail, Auto attendant voicemail failed to deliver, Auto attendant voicemail failed to forward.

101. *User setting changes:* 2-Step Verification Scratch Codes Of User Deleted, New 2-Step Verification Scratch Codes Generated For User, 3-Legged Oauth Device Tokens Revoked, 3-Legged Oauth Token Revoked, Add Recovery Email For User, Add Recovery Phone For User, Admin Privileges Granted For User, Admin Privileges Revoked For User, Application Specific Password Revoked For User, Automatic Contact Sharing Changed For User, Bulk Upload Notification, User Invite Cancelled, Custom Attribute Changed, External Id Changed, Gender Changed, Ims Changed, IP Whitelisted, Keywords Changed, User Location Changed, User Organization Changed, User Phone Numbers Changed, User Recovery Email Changed, User Recovery Phone Changed, User Relation Changed, User Address Changed, User Email Monitor Created, Data Transfer Requested For User, Delegated Admin Privileges Granted, Account Information Dump Deleted, Email Monitor Deleted, Mailbox Dump Deleted, Profile Photo Deleted, First Name Changed, Gmail Account Reset, Last Name Changed, Mail Routing Destination Created, Mail Routing Destination Deleted, Nickname Created, Nickname Deleted, Password Changed, Password Change Required On Next Login, Recovery Email Removed, Recovery Phone Removed, Account Information Requested, Mailbox Dump Requested, User Invite Resent, Cookies Reset For User And Forced Relogin, Security Key Registered For User, Security Key Revoked, User Invite Sent, Temporary Password Viewed, 2-Step Verification Turned Off, User Session Unblocked, Profile Photo Updated, User Advanced Protection Unenroll, User Archived, User Birthdate

Changed, User Created, User Deleted, User Downgraded From Social Media Application, User Enrolled In 2-Step Verification, User List Downloaded, User Org Unit Changed, User Put In 2-Step Verification Grace Period, User Renamed, User Strong Auth Unenrolled, User Suspended, User Unarchived, User Undeleted, User Unsuspended, User Upgraded To Social Media Application.

102. *Application Authoring application audit log elements:* App synced, App edited, App added, App deleted, App invocation added, App invocation edited, App invocation deleted, App invocation action performed, App read call made, App bot invocation.

103. *Organizational Administrative Data Elements:* Set Terms and Conditions, Modify Terms and Conditions, Set org custom theme, Edit org custom theme, Add custom policy, Delete custom policy, Create User IdP Profile, Create environment, Delete environment, Rename environment, Edit domain name, Create business group, Edit business group name, Edit business group entitlement, Delete business group.

104. *API audit log elements:* Create API, Delete API, Import API, Update label of API, Update consumer endpoint of API, Update endpoint URI of API, Calendar API kind, Application API client version, Create API version, Delete API version, Import API, Edit name of API version, Edit description of API version, Edit API URL of API version, Add tag to API, Remove tag from API, Deprecate API, Set T&Cs, Create RAML, Modify RAML, Create endpoint, Update existing endpoint, Deploy proxy, Update deployed proxy, Redeploy proxy, Create SLA tier, Modify SLA tier, Deprecate SLA tier, Delete SLA tier, Apply policy, Edit policy, Remove policy, Create project, Delete project, Delete files, Rename project, Clean branch, Create branch, Delete branch, Save branch, Delete file, Move file, Import project, Publish to Exchange, Publish to API Platform, Add dependencies, Remove dependencies, Change dependencies, Reload dependencies, Merge Branch, Share project, Sync with Data Repository, Unsync with Data Repository, Modify organization settings, Rename branch, Modify project settings.

105. *API Metadata:* Create an API instance, Delete an API instance, Update an API instance.

106. *Application Data:* Create application, Delete application, Reset client secret, Request access, Request tier change, Request tier change approval, Approve application, Revoke application, Restore application, Create Mocking Service link, Delete Mocking Service link, Create/modify/delete Object store, Upload file, Delete file, Update file,

107. *Private Portals audit log events:* Create portal, Modify portal association, Delete portal, Add portal page, Make portal page visible, Delete portal page, Edit portal page, Hide portal page, Set portal theme, Modify portal theme, Modify portal security, Create a page, Update a page, Delete a page, Publish a portal.

108. *Public Portals audit log events:* Update a domain, Delete a domain, Create a page, Delete a page, Update a page, Create a portal, Publish a portal, Delete a portal, Update a portal.

109. *Identity Management audit log events:* Create identity provider configuration, Edit identity provider configuration, Delete identity provider configuration, Warning, Create identity management key, Set primary identity management key, Delete identity management key.

110. *Connected App audit log events:* Create Connected Application, Edit Connected Application, Delete Connected Application, Update Scope Assignments, Application Authorization Approved, Application Authorization Denied, Token Retrieval Success, Token Retrieval Failed, Revoke Access/Refresh Tokens.

111. *Team audit log events:* Create Team, Update Team, Move Team, Add Members, Remove Members, Add Permissions, Remove Permissions, Edit External Group Mappings, Delete Team.

112. *Asset Management audit log events:* Create an asset, Update an asset, Delete an asset, Share an asset, Publish an asset to public portal, Remove an asset from public portal, Update an asset icon, Delete an asset icon, Create a managed tag (category), Delete a managed tag (category), Delete an organization, Update tags, Create a tag configuration, Update a tag configuration, Delete a tag configuration.

113. *Asset Review audit log events:* Create a Comment, Delete a comment, Update a comment, Create a review, Delete a review, Update a review.

114. *Runtime Manager audit log events:* Create application, Start application, Restart application, Stop application, Delete application, Change application zip file, Promote application from sandbox, Change application runtime, Change application worker size, Change application worker number, Enable/disable persistent queues, Enable/disable persistent queue encryption, Modify application properties, Enable/disable insight, Modify log levels, Create/modify/delete alerts, Enable/disable alerts, Create/modify/delete application data, Create/modify schedules, Create/modify/delete tenants, Enable/disable schedules, Clear queues, Enable/Disable static IP, Allocate/release static IP, LoadBalancer Create/modify/delete, Create/modify/delete alerts V2, Create/modify/delete VPC, Create/modify/delete VPN.

115. *Server audit log events:* Add server, Delete server, Rename server, Create server group, Delete server group, Rename server group, Add server to server group, Remove server from server group, Create cluster, Delete Cluster, Rename cluster, Add server to cluster, Remove server from cluster, Deploy application, Delete application, Start application, Stop application, Redeploy application with existing file, Redeploy application with new file.

116. *Private Spaces audit log events:* Create/Modify/Delete private space, Create/Modify/Delete connection, Create/Modify/Delete VPN, Create/Modify/Delete transit gateway, Create/Modify/Delete TLSContext, Create/Modify/Delete routes.

117. *Anypoint MQ audit log events:* Create/modify/delete/purge queue, Create/modify/delete exchange, Create/delete exchange binding, Create/delete/regenerate client.

118. *Mentorship program application data:* Notification Logs, Notification Type, Notification Template, Status, Time sent, Email Events, General Application Data, Support Tickets, Product Usage Analytics, Product update in app notification delivery status, Application error logs, Application request logs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 9. apply. In addition:

a. To appropriate agencies, entities, and persons when (1) the Postal Service suspects or has confirmed that there has been a breach of the system of records; (2) the Postal Service has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Postal Service (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Postal Service's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

RECORD SOURCE CATEGORIES:

Employees; contractors; customers.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records relating to system administration are retrievable by user ID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records relating to system administration are retained for twenty-four months.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Computer access is limited to authorized personnel with a current security clearance, and physical access is limited to authorized personnel who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by encryption, mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the Chief Information Officer and Executive Vice President and include their name and address.

EXEMPTION(S) PROMULGATED FROM THIS SYSTEM:

None.

HISTORY:

May 10th, 2021; 86 FR 24902.

Colleen Hibbert-Kapler,

Attorney, Ethics and Compliance.

[FR Doc. 2023–26480 Filed 11–30–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99022; File No. SR–NSCC–2023–011]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Refine the Margin Liquidity Adjustment (''MLA'') Charge Calculation and the Description of the MLA Charge

November 27, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 17, 2023, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to NSCC's Rules & Procedures (''Rules'') to refine the Margin Liquidity Adjustment (''MLA'') charge calculation and the description of the MLA charge, as described in greater detail below.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to refine the MLA charge calculation to more accurately calculate the impact costs of liquidating a security/portfolio by (i) moving all exchange traded products (''ETPs'') (other than those deemed to be Illiquid Securities) into the equities asset group and calculating impact cost at the security level rather than at the subgroup level for the equities asset subgroups and (ii) improving the calculations relating to exchange traded funds (''ETFs'') by adding a calculation for latent liquidity for equity ETFs with in-kind baskets, as described in more detail below.

NSCC conducted an impact study of the proposed changes based on data from January 3, 2022 through June 30, 2023.[4] The impact study indicated that if the proposed changes had been in place during the impact study period, the proposed changes would have resulted in an approximately $62 million daily average increase during the impact study period, which accounts for approximately 0.52% of the daily total Clearing Fund during that period. Currently, the daily MLA charge accounts for approximately 3.54% of the daily total Clearing Fund. With the proposed MLA charge refinements, the MLA charge would have accounted for approximately 4.06% of the daily total Clearing Fund.

NSCC is also proposing to enhance the description of the MLA charge to clarify the description of the calculation with respect to SFT Positions in connection with Securities Financing Transactions, as described below.

(i) Overview of Required Fund Deposit and MLA Charge

As part of its market risk management strategy, NSCC manages its credit exposure to Members by determining the appropriate Required Fund Deposits to the Clearing Fund and monitoring its sufficiency, as provided for in the Rules.[5] The Required Fund Deposit serves as each Member's margin.

[4] In order to more accurately assess the impact of the proposed changes, the impact study included changes to the gap risk measure that were implemented on October 2, 2023 as if such changes had been in effect during the impact study period. *See* Securities Exchange Act Release No. 98086 (Aug. 8, 2023), 88 FR 55100 (Aug. 14, 2023) (File No. SR–NSCC–2022–015) (order approving proposed rule change to change the gap risk measure).

[5] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters), *supra*

Continued

The objective of a Member's Required Fund Deposit is to mitigate potential losses to NSCC associated with liquidating a Member's portfolio in the event NSCC ceases to act for that Member (hereinafter referred to as a ''default'').[6] The aggregate of all Members' Required Fund Deposits constitutes the Clearing Fund of NSCC. NSCC would access its Clearing Fund should a defaulting Member's own Required Fund Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.[7]

Volatility Charge

Pursuant to the Rules, each Member's Required Fund Deposit amount consists of a number of applicable components, each of which is calculated to address specific risks faced by NSCC, as identified within Procedure XV of the Rules.[8] Generally, the largest component of Members' Required Fund Deposits is the volatility charge. The volatility charge is designed to capture the market price risk associated with each Member's portfolio at a 99th percentile level of confidence.

NSCC has two methodologies for calculating the volatility charge. For the majority of Net Unsettled Positions,[9] NSCC calculates the volatility charge as the sum of (1) the greater of (a) the larger of two separate calculations that utilize a parametric Value at Risk (''VaR'') model and (b) a portfolio margin floor calculation based on the market values of the long and short positions in the portfolio and (2) a gap risk measure calculation based on the concentration threshold of the two largest non-diversified positions in a portfolio (''VaR Charge'').[10] NSCC excludes certain Net Unsettled Positions from the calculation of the VaR Charge and instead applies a haircut-based volatility charge that is calculated by multiplying the absolute value of those Net Unsettled Positions by a percentage.[11]

MLA Charge

NSCC applies an MLA charge [12] to address situations where the characteristics of the defaulted Member's portfolio could cause the market impact costs to be higher than the amount collected for the applicable volatility charge.[13] The MLA charge is designed to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type (referred to as ''asset groups''). A Member portfolio with large Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type may be more difficult to liquidate in the market in the event the Member defaults because a concentration in that group of securities or in an asset type could reduce the marketability of those large Net Unsettled Positions. Therefore, such portfolios create a risk that NSCC may face increased market impact cost to liquidate that portfolio in the assumed margin period of risk of three business days at market prices.

The MLA charge is calculated to address this increased market impact cost by assessing sufficient margin to mitigate this risk. The MLA charge is calculated for different asset groups. Essentially, the calculation is currently designed to compare the total market value of a Net Unsettled Position in a particular asset group, which NSCC would be required to liquidate in the event of a Member default, to the available trading volume of that asset group or equities subgroup in the market.

NSCC regularly assesses market and liquidity risks as such risks relate to NSCC's margining methodologies to evaluate whether margin levels are commensurate with the particular risk attributes of each relevant product, portfolio, and market. The proposed changes to enhance the MLA charge by improving the calculation of the impact costs of liquidating Net Unsettled Positions in certain securities, as described below, are the result of NSCC's regular review of the effectiveness of its margining methodology and in response to regulatory feedback.

(ii) Proposed Changes to Market Impact Cost Calculations

Existing Market Impact Cost Calculations

To calculate the MLA charge, NSCC currently categorizes securities into separate asset groups that have similar risk profiles—(1) equities [14] (excluding equities defined as Illiquid Securities pursuant to the Rules),[15] (2) Illiquid Securities, (3) unit investment trusts, or UITs, (4) municipal bonds (including municipal bond ETPs), and (5) corporate bonds (including corporate bond ETPs).[16] NSCC then further segments the equities asset group into the following subgroups: (i) micro-capitalization equities, (ii) small capitalization equities, (iii) medium capitalization equities, (iv) large capitalization equities, (v) treasury ETPs, and (vi) all other ETPs.[17]

NSCC first calculates a measurement of market impact cost for each asset group and equities asset subgroup for which a Member has Net Unsettled Positions in its portfolio.[18] The calculation of an MLA charge is designed to measure the potential

note 3. NSCC's market risk management strategy is designed to comply with Rule 17Ad–22(e)(4) under the Act, where these risks are referred to as ''credit risks.'' 17 CFR 240.17Ad–22(e)(4).

[6] The Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. *See* Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 3.

[7] *See* Rule 4 (Clearing Fund), *supra* note 3.

[8] *Supra* note 3.

[9] Net Unsettled Positions and Net Balance Order Unsettled Positions refer to net positions that have not yet passed their settlement date or did not settle on their settlement date, and are referred to collectively in this filing as ''Net Unsettled Positions.'' *See* Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 3.

[10] *See* Section I(A)(1)(a)(i) of Procedure XV of the Rules, *supra* note 3.

[11] *See* Section I(A)(1)(a)(ii), (iii) and (iv), and Section I(A)(2)(a)(ii), (iii) and (iv), of Procedure XV of the Rules, *supra* note 3.

[12] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

[13] *See* Securities Exchange Act Release Nos. 90181 (Oct. 14, 2020), 85 FR 66646 (Oct. 20, 2020) (File No. SR–NSCC–2020–016) and 90034 (Sep. 28, 2020), 85 FR 62342 (Oct. 2, 2020) (File No. SR–NSCC–2020–804) (collectively, ''MLA Charge Filing'') (introduced the MLA charge).

[14] NSCC excludes long positions in Family-Issued Securities, as defined in Rule 1 (Definitions) of the Rules, from the MLA charge. NSCC believes the margin charge applicable to long Net Unsettled Positions in Family-Issued Securities pursuant to Sections I(A)(1)(a)(iv) and (2)(a)(iv) of Procedure XV of the Rules provides adequate mitigation of the risks presented by those Net Unsettled Positions, such that an MLA charge would not be triggered. *Supra* note 3.

[15] *See* Rule 1 (Definitions), *supra* note 3.

[16] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

[17] *Id.* The market capitalization categorizations currently are as follows: (i) micro-capitalization equities have a capitalization of less than $300 million, (ii) small capitalization equities have a capitalization of equal to or greater than $300 million and less than $2 billion, (iii) medium capitalization equities have a capitalization of equal to or greater than $2 billion and less than $10 billion, and (iv) large capitalization equities have a capitalization of equal to or greater than $10 billion. NSCC reviews these categories annually, and any changes that NSCC deems appropriate are subject to NSCC's model risk management governance procedures set forth in the Clearing Agency Model Risk Management Framework (''Model Risk Management Framework''). *See* Securities Exchange Act Release Nos. 81485 (Aug. 25, 2017), 82 FR 41433 (Aug. 31, 2017) (File No. SR–NSCC–2017–008); 84458 (Oct. 19, 2018), 83 FR 53925 (Oct. 25, 2018) (File No. SR–NSCC–2018–009); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (File No. SR–NSCC–2020–008); 92381 (July 13, 2021), 86 FR 38163 (July 19, 2021) (SR–NSCC–2021–008); and 94272 (Feb. 17, 2022), 87 FR 10419 (Feb., 24 2022) (SR–NSCC–2022–001).

[18] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

additional market impact cost to NSCC of closing out a large Net Unsettled Position in that particular asset group or equities subgroup.

Market Impact Cost Calculation for Market Capitalization Subgroups of Equities Asset Group

The market impact cost for each Net Unsettled Position in a market capitalization subgroup of the equities asset group is currently calculated by multiplying four components: (1) an impact cost coefficient that is a multiple of the one-day market volatility of that subgroup and is designed to measure impact costs, (2) the gross market value of the Net Unsettled Position in that subgroup, (3) the square root of the gross market value of the Net Unsettled Position in that subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that subgroup, and (4) a measurement of the concentration of the Net Unsettled Position in that subgroup in the portfolio (as described in greater detail below).[19] Rather than calculate the market impact cost for each security for the MLA charge, NSCC currently estimates market impact cost at the portfolio-level using aggregated volume data.

The measurement of the concentration of the Net Unsettled Position in the subgroup includes aggregating the relative weight of each security in that Net Unsettled Position relative to the weight of that security in the subgroup, such that a portfolio with fewer positions in a subgroup would have a higher measure of concentration for that subgroup.[20]

Market Impact Cost Calculation for Other Asset Groups and Equities Asset Subgroups

The market impact cost for Net Unsettled Positions in the municipal bond, corporate bond, Illiquid Securities and UIT asset groups, and for Net Unsettled Positions in the treasury ETP and other ETP subgroups of the equities asset group are currently calculated by multiplying three components: (1) an impact cost coefficient that is a multiple of the one-day market volatility of that asset group or subgroup, (2) the gross market value of the Net Unsettled Position in that asset group or subgroup, and (3) the square root of the gross market value of the Net Unsettled Position in that asset group or subgroup in the portfolio divided by an assumed percentage of the average daily trading volume of that asset group or subgroup.[21]

Total MLA Charge Calculation for Each Portfolio

For each asset group or subgroup, NSCC compares the calculated market impact cost to a portion of the volatility charge that is allocated to Net Unsettled Positions in that asset group or subgroup (as determined by Sections I(A)(1)(a) and I(A)(2)(a) of Procedure XV of the Rules).[22] If the ratio of the calculated market impact cost to the applicable 1-day volatility charge is greater than a threshold, an MLA charge is applied to that asset group or subgroup.[23] If the ratio of these two amounts is equal to or less than this threshold, an MLA charge is not applied to that asset group or subgroup. The threshold is based on an estimate of the market impact cost that is incorporated into the calculation of the applicable 1-day volatility charge, such that an MLA charge applies only when the calculated market impact cost exceeds this threshold.

When applicable, an MLA charge for each asset group or subgroup is calculated as a proportion of the product of (1) the amount by which the ratio of the calculated market impact cost to the applicable 1-day volatility charge exceeds the threshold, and (2) the 1-day volatility charge allocated to that asset group or subgroup.[24]

For each Member portfolio, NSCC adds the MLA charges for Net Unsettled Positions in each of the subgroups of the equities asset group to determine an MLA charge for the Net Unsettled Positions in the equities asset group. NSCC then adds the MLA charge for Net Unsettled Positions in the equities asset group with each of the MLA charges for Net Unsettled Positions in the other asset groups to determine a total MLA charge for a Member.[25]

The ratio of the calculated market impact cost to the 1-day volatility charge also determines if NSCC would apply a downward adjustment, based on a scaling factor, to the total MLA charge, and the size of any adjustment.[26] For Net Unsettled Positions that have a higher ratio of calculated market impact cost to the 1-day volatility charge, NSCC applies a larger adjustment to the MLA charge by assuming that NSCC would liquidate that position on a different timeframe than the assumed margin period of risk of three business days. For example, NSCC may be able to mitigate potential losses associated with liquidating a Member's portfolio by liquidating a Net Unsettled Position with a larger volatility charge over a longer timeframe. Therefore, when applicable, NSCC applies a multiplier[27] to the calculated MLA charge. When the ratio of calculated market impact cost to the 1-day volatility charge is lower, the multiplier is one, and no adjustment would be applied; as the ratio gets higher the multiplier decreases and the MLA charge is adjusted downward.

The final MLA charge is calculated daily and, when the charge is applicable, as described above, is included as a component of Members' Required Fund Deposits.

NSCC is proposing to refine the calculation relating to the equity asset group by more accurately calculating the impact costs of liquidating a security/portfolio by (i) moving all ETPs (other than those deemed to be Illiquid Securities) into the equities asset group and calculating impact cost at the security level rather than at the subgroup level for the equities asset subgroups and (ii) improving the calculations relating to ETFs by adding a calculation for latent liquidity for equity ETFs with in-kind baskets, as described in more detail below.

Move Liquid ETPs Into Equities Asset Group and Provide Security Level Market Impact Cost Calculations

NSCC is proposing to move all ETPs, including corporate bond ETPs and municipal bond ETPs, other than ETPs that are deemed to be Illiquid Securities, into the equities asset group. Currently, corporate bond ETPs and municipal bond ETPs are included as corporate

[19] *Id.*

[20] The relative weight is calculated by dividing the absolute market value of a single security in the Member's portfolio by the total absolute market value of that portfolio.

[21] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

[22] *Supra* note 3. NSCC's margining methodology uses a three-day assumed period of risk. For purposes of this calculation, NSCC uses a portion of the applicable volatility charge that is based on one-day assumed period of risk and calculated by applying a simple square-root of time scaling, referred to in this proposed rule change as ''1-day volatility charge.'' Any changes that NSCC deems appropriate to this assumed period of risk would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See supra* note 17. *See also* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

[23] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3. The threshold is currently 0.4 because approximately 40 percent of the 1-day volatility charge addresses market impact costs. NSCC reviews this threshold from time to time, and any changes that NSCC deems appropriate would be subject to NSCC's model risk management governance procedures set forth in the Model Risk Management Framework. *See id.*

[24] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

[25] *Id.*

[26] *Id.*

[27] The multiplier is referred to as a downward adjusting scaling factor in Procedure XV. *See id.*

bonds and municipal bonds, respectively, for purposes of the MLA charge calculation. ETPs are traded on an exchange giving them equity-like properties such as trading volume data at the security level apart from their underlying assets which may not be actively traded. Therefore, the impact costs of liquidating ETPs can be estimated in the same manner as other items in the equities asset subgroups, at the security level, as discussed below. ETPs that are deemed to be Illiquid Securities, would be included in the Illiquid Securities category.[28]

NSCC is also proposing to revise the market impact cost calculation for the equities asset group and subgroups to calculate the impact cost at the security level. Based on the review of its margin methodologies (and the ETF Study discussed below), NSCC has determined that equities and liquid ETPs display a wide disparity of trading volumes (as measured by average daily volumes) even within subgroups, and the market impact costs are more dependent on specific securities than the subgroup. As a result, NSCC is proposing to calculate the market impact costs for securities in the equities asset group, including liquid ETPs, at the security level rather than at the subgroup level, which has shown to be a more accurate calculation of market impact costs for these securities.

As discussed above, currently the MLA charge calculation for the equity asset subgroups includes a measurement of the concentration of the Net Unsettled Position in the subgroup. Since the market impact cost would be calculated at the security level for the equities asset group, rather than the subgroup level, this measurement would no longer be necessary and would be removed.

In addition, currently for each asset group or subgroup, NSCC compares the calculated market impact cost to a portion of the volatility charge that is allocated to Net Unsettled Positions in that asset group or subgroup (as determined by Sections I(A)(1)(a) and I(A)(2)(a) of Procedure XV of the Rules) and compares that ratio to a threshold to determine if an MLA charge is applicable to that asset group or subgroup.[29] Since the market impact cost would be calculated at the security level for all assets in the equity asset group, rather than the subgroup level, this comparison would be at the asset group level for all asset groups, including the equities asset group, and would no longer be made at the subgroup level for subgroups within the equities asset group.

Proposed Improvements to ETF Calculations

NSCC is proposing to refine the impact cost calculations for ETFs to more accurately account for the market impact of these securities and in response to regulatory feedback on NSCC's margin methodologies. In particular, NSCC is proposing to incorporate ''latent'' liquidity to more accurately reflect the market liquidity of ETFs.

ETFs are securities that are traded on an exchange and that track underlying securities, indexes or other financial instruments, including equities, corporate and municipal bonds and treasury instruments. Unlike mutual funds, ETFs are created with the assistance of certain financial institutions called authorized participants (''APs''), often banks, that are given the ability to create and redeem ETF shares directly from the ETF issuer. To create ETF shares, an AP can either deliver a pre-specified bundle of securities underlying the ETFs (*i.e.,* an ''in-kind basket'') in exchange for ETF shares or provide cash equal to the value of the cost of purchasing underlying securities for the ETF shares. To redeem ETF shares, an AP would do the opposite—deliver ETF shares to the ETF issuer in exchange for an in-kind basket of underlying securities or cash equal to the value of the underlying securities.

Throughout the life of an ETF, APs create and redeem shares depending on the market and arbitrage opportunities. As a result, ETFs, particularly those with in-kind creation/redemption mechanisms, tend to trade close to the value of the underlying securities. For instance, if the market price of the ETF on the secondary market (discussed below) is above the value of the securities underlying the ETF, the AP can purchase underlying securities (at the lower price) and exchange those securities to create new ETFs. Likewise, if the market price of the ETF falls below the value of the securities underlying the ETFs, an AP can buy ETF shares on the secondary market and redeem them with the ETF issuer in exchange for underlying securities.

Latent Liquidity

As a result of this structure, ETF market liquidity can be divided into two markets: the primary market and the secondary market. The primary market consists of APs creating and redeeming ETF shares directly with the ETF issuer. The secondary market consists of investors buying and selling ETFs through exchanges. Often the stocks underlying an ETF basket have much larger trading volume than the ETF itself. Upon the liquidation of a portfolio with ETFs, the ability of APs to create and redeem ETF shares provides additional liquidity, also called ''latent liquidity,'' which changes the market risk profile of ETFs with in-kind basket creation/redemption processes.

The current impact cost calculation for the MLA charge does not include calculations measuring the impact relating to the latent liquidity. NSCC recently commissioned a review of ETFs (''ETF Study'') that included an ETF market review, risk characteristics and an independent simulation of market impact costs associated with sample clearing portfolios. Based on the ETF Study, it was observed that most equity ETFs with an in-kind creation/redemption process trade with very tight premium/discount to net asset value (''NAV''), or close to the value of the underlying securities.[30] Often, however, the stocks underlying the equity ETF baskets have a much larger trading volume than the equity ETF itself, which creates latent liquidity.

As a result, NSCC is proposing to include as part of an impact calculation, a measure of the latent liquidity for equity ETFs with in-kind basket creation/redemption processes and a measure of the costs associated with primary market arbitrage to more accurately assess the impact costs relating to liquidating portfolios containing equity ETFs. The proposed calculation would take into account liquidity in the primary and secondary market for liquid equity ETFs with in-kind creation/redemption processes, by comparing the market impact cost of such equity ETFs based on a hypothetical liquidation in the primary market and in the secondary market.

To determine the impact costs of a liquidation of equity ETFs with in-kind baskets, NSCC would run the proposed MLA charge calculations described above in two scenarios for portfolios that contain such ETFs and compare the two calculations to determine the impact cost. NSCC would run a baseline calculation (''Baseline Calculation'') to

[28] *See* definition of ''Illiquid Security'' in Rule 1, *supra* note 3. For instance, if an ETP is not listed on a specified securities exchange or has a limited trading history, as defined in the definition, it would be treated as an Illiquid Security for purposes of the MLA charge calculations.

[29] *See supra* note 22 and accompanying text.

[30] When an ETF's market price is higher than its NAV, it's trading at a premium, when it's lower, it's trading at a discount. The spread between the premium or discount to the NAV represents a potential cost to close out the paired ETF and its in-kind basket.

simulate all the ETF positions being liquidated in the secondary market and the impact cost calculation would be at the security level (*i.e.,* the ETF shares) as liquid equities (as discussed above). NSCC would also run an alternative calculation (''Create/Redeem Calculation'') to simulate the ETF positions being liquidated in the primary market using the creation/redemption process.

The Create/Redeem Calculation would be calculated in the following steps:

One—the liquid equity ETFs eligible for in-kind create/redeem process would be fully decomposed into (a) the corresponding underlying baskets of the liquid equity ETFs and (b) pairs of such ETFs and their corresponding underlying baskets;

Two—the decomposed underlying baskets and the residual securities in the portfolio (*i.e.,* the securities in the original portfolio that are not ETFs eligible for in-kind create/redeem process) would be netted at the security level;

Three—the impact cost on the portfolio from the second step would be calculated assuming all the securities would be liquidated in the secondary market and the impact costs would be calculated as described above as if such securities are liquid equities;

Four—the impact cost calculated in the third step would be adjusted by an amount to account for the portfolio risk difference [31] from the netted securities from the second step to the original portfolio;

Five—the impact cost for paired ETFs and their corresponding underlying baskets would be calculated by multiplying the gross market amount of the ETFs by a haircut representing the premium/discount,[32]

Six—the impact costs from step four and step five would be added together.

NSCC would then use the smaller calculated impact costs of either the Baseline Calculation or the Create/Redeem Calculation for purposes of calculating the MLA charge.

[31] The original portfolio used in the Baseline Calculation and the portfolio from step two would have different portfolio risks. As a result, because such portfolios would contain different positions, they would have different VaR Charges if calculated separately. The VaR Charge of the original portfolio is a component of the MLA charge calculation for the portfolio from step two. Step four would adjust for those differences as part of the impact cost.

[32] The haircut is calculated as an estimate of the cost of closing out the ETFs and underlying pairs using the create/redeem process. The haircut is a model parameter and will be reviewed at least monthly in accordance with the model risk management governance procedures set forth in the model Risk Management Framework. *See supra* note 17.

(iii) Proposed Changes to MLA Charge Description With Respect to SFT Positions

Rule 56 describes the SFT Clearing Service and contains a description of how the Clearing Fund formula is calculated with respect to SFT Positions, including how such positions are calculated with respect to the MLA charge.[33] The proposed rule change would update the language relating to the MLA charge to clarify how NSCC would calculate the MLA charge with respect to SFT Positions for transparency and to reflect the proposed MLA charge refinements. NSCC would clarify how SFT Positions would be categorized for purposes of the MLA charge by replacing language stating that SFT Positions are ''aggregated with'' Net Unsettled Positions in the same asset group or subgroup with language that clarifies that SFT Positions would be categorized in the same asset groups or subgroups as the underlying SFT Securities in such SFT Positions. NSCC would also clarify language discussing an added calculation relating to the MLA charge in the event a Member's portfolio contains both (i) SFT Positions and (ii) Net Unsettled Positions or Net Balance Order Unsettled Positions. The language in Rule 56 relating to the added calculation for SFT positions does not reference Net Balance Order Unsettled Positions which are treated in the same manner as Net Unsettled Positions for purposes of the added calculation when a portfolio contains both (i) SFT Positions and (ii) Net Unsettled Positions or Net Balance Order Unsettled Positions. The proposed language would add a reference to Net Balance Order Unsettled Positions. The clarifying changes to reference that SFT Positions would be categorized in the same asset group as their underlying SFT Securities and to reference Net Balance Order Unsettled Positions in the added calculation language would not change how NSCC would calculate the MLA charge with respect to SFT positions and are clarifications only.

NSCC is also proposing to add a sentence in Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules clarifying that if a Member's portfolio contains both (i) SFT Positions and (ii) Net Unsettled Positions or Net Balance Order Unsettled Positions, the MLA charge shall be calculated as set forth in Rule 56.

[33] *See* Rule 56 (Securities Financing Transaction Clearing Service) of the Rules, *supra* note 3.

(iv) Proposed Changes to NSCC Rules

The proposal described above would be implemented into Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules.[34] These sections would be amended to move all ETP categories as subgroups in the equities asset group other than ETPs that are deemed to be Illiquid Securities, which would be categorized as Illiquid Securities. A footnote in each of these sections would be added to the ''all other ETPs'' category to clarify that ETPs with underlying securities separately categorized in an equities asset subgroup would be categorized by the asset types and capitalizations of their underlying securities, and that ETPs that are deemed Illiquid Securities would be categorized in the Illiquid Securities asset group.

NSCC would also add language in Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV stating that the impact cost for ETFs with in-kind baskets would include calculations comparing impact costs in the secondary market and the primary market for such equity ETFs, as discussed above. NSCC would indicate that it would calculate impact costs in two scenarios: (1) a baseline calculation to simulate such ETFs being liquidated in the secondary market where the impact costs would be calculated at the security level (*i.e.,* the ETF shares) utilizing the equities asset subgroup security level and (2) a create/redeem calculation to simulate an authorized participant using the primary market to liquidate such ETFs using the creation/redemption process. The proposed language would include a description of the how the impact costs for the create/redeem calculation would be calculated by decomposing the ETFs into their underlying securities and calculating impact costs of such underlying securities utilizing the equity asset subgroup calculations (as discussed above). The proposed language would also state that an adjustment would be made in the create/redeem calculation to reflect the different portfolio risks of the original portfolio used in the baseline calculation and the decomposed portfolio used in the create/redeem calculation. The proposed language would provide that NSCC would then use the smaller calculated impact costs of the scenarios for purposes of the MLA charge for such ETFs.

Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV would be restructured to reflect that the market impact calculation for securities in the equities

[34] *See* Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV of the Rules, *supra* note 3.

asset group would be calculated at the security level rather than the subgroup level, as discussed above. As a result of this change, the current component that measures the concentration of each Net Unsettled Position in a subgroup would be removed from Sections I(A)(1)(g)(i)(4) and I(A)(2)(f)(i)(4) of Procedure XV. References to subgroup calculations would also be removed in applicable provisions, including the provisions relating to comparing the calculated market impact cost at the subgroup level to the volatility charge applicable to the Net Unsettled Positions and an applicable MLA charge at the subgroup level and a sentence that states that all MLA charges for each of the equities subgroups shall be added together to result in one MLA charge for the equities subgroup. In addition, references to subgroups with respect to calculations relating to asset groups other than the equities asset group currently in Sections I(A)(1)(g)(ii) and I(A)(2)(f)(ii) (*i.e.,* references to the treasury ETP and other ETP subgroups) would be removed since those would be calculated as part of the equities asset group, as discussed above.

NSCC would add language to clarify that for each Member, all MLA charges for each of the asset groups shall be added together to result in a total MLA charge.

The description of the MLA charge with respect to SFT Positions would be updated in Rule 56 and Sections I(A)(1)(g) and I(A)(2)(f) of Procedure XV would be updated to reference Rule 56, as described above.

(v) Implementation Timeframe

NSCC would implement the proposed rule change no later than 90 Business Days after the approval of the proposed rule change by the Commission. NSCC would announce the effective date of the proposed rule change by Important Notice posted to its website.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes the proposed changes are consistent with section 17A(b)(3)(F) of the Act,[35] and Rules 17Ad–22(e)(4)(i) and (e)(6)(i), each promulgated under the Act,[36] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of NSCC be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[37] NSCC believes the proposed change to enhance the MLA charge is designed to assure the safeguarding of securities and funds which are in NSCC's custody or control or for which it is responsible because such change is designed to more accurately calculate the market impact costs to NSCC of liquidating a Member's portfolio in the event of that Member's default. Specifically, the proposed enhancements to the MLA charge would allow NSCC to collect sufficient financial resources to cover the exposure that NSCC may face regarding increased market impact costs in liquidating Net Unsettled Positions in a particular group of securities with a similar risk profile or in a particular asset type that are not captured by the volatility charge. The proposed enhancements would result in a more accurate calculation of the impact costs of liquidating a security/portfolio by moving all ETPs (except for Illiquid Securities) into the equities asset group and adding a calculation for latent liquidity for equity ETFs and therefore improve NSCC's ability to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in particular asset groups.

The Clearing Fund is a key tool that NSCC uses to mitigate potential losses to NSCC associated with liquidating a Member's portfolio in the event of Member default. Therefore, the proposed change to enhance the MLA charge would enable NSCC to better address the increased market impact costs of liquidating Net Unsettled Positions, in particular securities with risk profiles dependent on the particular trading market of the security, such that, in the event of Member default, NSCC's operations would not be disrupted, and non-defaulting Members would not be exposed to losses they cannot anticipate or control. In this way, the proposed rule change to enhance the MLA charge is designed to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, consistent with section 17A(b)(3)(F) of the Act.[38]

NSCC also believes the proposed changes to provide transparency to the Rules by updating the language relating to how the MLA charge is calculated with respect to SFT Positions are consistent with the requirements of section 17A(b)(3)(F) of the Act.[39] Specifically, by enhancing the transparency of the Rules, the proposed changes would allow Members to more efficiently and effectively conduct their business in accordance with the Rules, which NSCC believes would promote the prompt and accurate clearance and settlement of securities transactions.

Rule 17Ad–22(e)(4)(i) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[40]

As described above, NSCC believes that the proposed changes would enable it to better identify, measure, monitor, and, through the collection of Members' Required Fund Deposits, manage its credit exposures to Members by maintaining sufficient financial resources to cover those credit exposures fully with a high degree of confidence.

Specifically, NSCC believes that the proposed enhancements to the MLA charge would effectively mitigate the risks related to large Net Unsettled Positions of securities in the equities asset group within a portfolio and would address the potential increased risks NSCC may face related to its ability to liquidate such positions in the event of a Member default. The proposed enhancements would result in a more accurate calculation of the impact costs of liquidating a security/portfolio by moving all ETPs (except for Illiquid Securities) into the equities asset group and adding a calculation for latent liquidity for equity ETFs and therefore improve NSCC's ability to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in particular asset groups.

Therefore, NSCC believes that the proposal would enhance NSCC's ability to effectively identify, measure and monitor its credit exposures and would enhance its ability to maintain sufficient financial resources to cover its credit exposure to each participant fully with

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i).

[37] 15 U.S.C. 78q–1(b)(3)(F).

[38] *Id.*

[39] *Id.*

[40] 17 CFR 240.17Ad–22(e)(4)(i).

a high degree of confidence. As such, NSCC believes the proposed changes are consistent with Rule 17Ad–22(e)(4)(i) under the Act.[41]

Rule 17Ad–22(e)(6)(i) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[42]

Required Fund Deposits are made up of risk-based components (as margin) that are calculated and assessed daily to limit NSCC's credit exposures to Members, including the VaR Charge. NSCC's proposed change to enhance the MLA charge is designed to more effectively address the risks presented by Net Unsettled Positions in the proposed equities asset group, including equity ETFs with in-kind creation/redemption processes. NSCC believes the enhancements of the MLA charge would enable NSCC to assess a more appropriate level of margin that accounts for these risks. The proposed enhancements would result in a more accurate calculation of the impact costs of liquidating a security/portfolio by moving all ETPs (except for Illiquid Securities) into the equities asset group and adding a calculation for latent liquidity for equity ETFs and therefore improve NSCC's ability to address the market impact costs of liquidating a defaulted Member's portfolio that may increase when that portfolio includes large Net Unsettled Positions in a particular group of securities with a similar risk profile or in particular asset groups. This proposed change is designed to assist NSCC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks and particular attributes of portfolios that contain large Net Unsettled Positions in the same asset group and may be more difficult to liquidate in the event of a Member default. Therefore, NSCC believes the proposed rule change is consistent with Rule 17Ad–22(e)(6)(i) under the Act.[43]

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe the proposed changes to provide transparency to the Rules by updating the language relating to how the MLA charge is calculated with respect to SFT Positions would impact competition. These proposed rule changes would merely enhance the transparency of the Rules. Therefore, this proposed changes would not affect NSCC's operations or the rights and obligations of Members. As such, NSCC believes this proposed rule change to improve the transparency of the Rules would not have any impact on competition.

NSCC believes that the proposed changes to refine the MLA charge calculation could have an impact on competition. Specifically, NSCC believes the proposed changes could burden competition because they would result in larger Required Fund Deposit amounts for Members when the additional MLA charges are applicable and result in Required Fund Deposits that are greater than the amounts calculated pursuant to the current formula. However, NSCC believes any burden on competition that may result from the proposed rule change would be necessary and appropriate in furtherance of the purposes of the Act,[44] for the reasons described below.

When the proposal results in a larger Required Fund Deposit, the proposed change could burden competition for Members that have lower operating margins or higher costs of capital compared to other Members. However, the increase in Required Fund Deposit would be in direct relation to the specific risks presented by each Member's Net Unsettled Positions, and each Member's Required Fund Deposit would continue to be calculated with the same parameters and at the same confidence level for each Member. Therefore, Members that present similar Net Unsettled Positions, regardless of the type of Member, would have similar impacts on their Required Fund Deposit amounts. As such, NSCC believes that any burden on competition imposed by the proposed changes would be both necessary and appropriate in furtherance of NSCC's efforts to mitigate risks and meet the requirements of the Act, as described in this filing and further below.

NSCC believes the above described burden on competition that may be created by the proposed enhancements to the MLA charge would be necessary in furtherance of the Act, specifically section 17A(b)(3)(F) of the Act.[45] As stated above, the proposed enhancements to the MLA charge are designed to more effectively address the market impact costs to NSCC of liquidating a Member portfolio in the event of the Member's default. Specifically, the proposed enhancements to the MLA charge would allow NSCC to collect sufficient financial resources to cover the exposure that NSCC may face regarding increased market impact costs in liquidating Net Unsettled Positions that are not captured by the volatility charge. Therefore, NSCC believes this proposed change is consistent with the requirements of section 17A(b)(3)(F) of the Act, which requires that the Rules be designed to assure the safeguarding of securities and funds that are in NSCC's custody or control or for which it is responsible.[46]

NSCC believes these proposed changes would also support NSCC's compliance with Rules 17Ad–22(e)(4)(i) and (e)(6)(i) under the Act, which require NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to (x) effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence; and (y) cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[47]

As described above, the enhancements to the MLA charge would allow NSCC to employ a risk-based methodology that would better address the increased market impact costs that NSCC could face when liquidating Net Unsettled Positions in particular securities. Therefore, NSCC believes the proposed changes would better limit NSCC's credit exposures to Members, consistent with the requirements of Rules 17Ad–22(e)(4)(i) and (e)(6)(i) under the Act.[48]

The proposed enhancements to the MLA charge would also enable NSCC to produce margin levels more commensurate with the risks and particular attributes of each Member's portfolio by measuring the increased market impact costs that NSCC may face when liquidating a defaulted Member's portfolio that includes Net Unsettled Positions in particular securities. Therefore, because the proposed

[41] *Id.*

[42] 17 CFR 240.17Ad–22(e)(6)(i).

[43] *Id.*

[44] 15 U.S.C. 78q–1(b)(3)(I).

[45] 15 U.S.C. 78q–1(b)(3)(F).

[46] *Id.*

[47] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i).

[48] *Id.*

changes are designed to provide NSCC with an appropriate measure of the risks related to market impact costs presented by Members' portfolios, NSCC believes the proposal is appropriately designed to meet NSCC's risk management goals and its regulatory obligations.

NSCC believes that it has designed the proposed changes in an appropriate way in order to meet compliance with its obligations under the Act. Specifically, the proposal would improve the risk-based margining methodology that NSCC employs to set margin requirements and better limit NSCC's credit exposures to its Members. Therefore, as described above, NSCC believes the proposed changes are necessary and appropriate in furtherance of NSCC's obligations under the Act, specifically section 17A(b)(3)(F) of the Act,[49] and Rules 17Ad–22(e)(4)(i) and (e)(6)(i) under the Act.[50]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

NSCC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NSCC–2023–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–NSCC–2023–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NSCC–2023–011 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26390 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[49] 15 U.S.C. 78q–1(b)(3)(F).

[50] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i).

[51] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–803, OMB Control No. 3235–0754]

Submission for OMB Review; Comment Request; Extension: Rule 30b1–10, Form N–RN

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 30b1–10 [17 CFR 270.30b1–10] and Form N–RN [17 CFR 274.223] require registered open-end management investment companies (not including entities regulated as money market funds under 17 CFR 270.2a–7), registered closed-end funds, and business development companies (collectively, ''funds''), to file a current report on Form N–RN on a non-public basis when certain events related to their liquidity and events regarding funds' compliance with the VaR-based limit on fund leverage risk in 17 CFR 270.18f–4 (''rule 18f–4'') occur. The first category of information reported on Form N–RN concerns events under which more than 15% of an open-end fund's net assets are, or become, illiquid investments that are assets as defined in 17 CFR 270.22e–4 (''rule 22e–4'') and when holdings in illiquid investments are assets that previously exceeded 15% of a fund's net assets have changed to be less than or equal to 15% of the fund's net assets. The second category of

information reported on Form N–RN regards events for certain open-end funds under which a fund's holdings in assets that are highly liquid investments fall below the fund's highly liquid investment minimum defined in rule 22e–4 for more than 7 consecutive calendar days. The third category of information reported on Form N–RN regards information about a fund's breaches of the VaR test under rule 18f–4. A report on Form N–RN is required to be filed, as applicable, within one business day of the occurrence of one or more of these events. In addition, a fund is in certain cases required to file a second Form N–RN when it is no longer in breach of the applicable limit.

Based on historical filing data and projected estimates of the annual number of VAR-based filings, the staff estimates that the Commission will receive roughly 66 reports per year on Form N–RN on average When filing a report on Form N–RN, staff estimates that a fund will spend on average approximately 3 hours of a in house compliance attorney's time and 1 hour of a senior programmer time to prepare, review, and submit Form NRN at a total time cost of $1,661.[1] Accordingly, in the aggregate, staff estimates that compliance with rule 30b1–10 and Form N–LIQUID will result in a total annual burden of approximately 264 burden hours and total annual time costs of approximately $109,626.[2]

Compliance with rule 30b1–10 is mandatory for all funds. Responses to the disclosure requirements will be kept confidential. The estimate of average burden hours is made solely for the purposes of the PRA. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to enable the Commission to receive information on fund liquidity events more uniformly and efficiently, and to enhance the Commission's oversight of funds when significant liquidity events occur and its ability to respond to market events. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by January 2, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: November 27, 2023.

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26406 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculations: (3 hours × $425/hour for an in house compliance attorney = $1,275 plus (1 hour × $386/hour for a senior programmer = $386, for a combined total of 4 hours at total time costs of $1,661. The estimates concerning the wage rates for an in house compliance attorney and a senior programmer time are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for in-house compliance attorneys and senior programmers, modified to account for a 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

[2] This estimate is based on the following calculations: 66 reports filed per year × 4 hours per report = approximately 264 total annual burden hours. 66 reports filed per year × $1,661 in costs per report = $109,626 total annual costs.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday, December 7, 2023. The meeting will begin at 10:30 a.m. (ET) and will be open to the public.

PLACE: The meeting will be conducted by remote means. Members of the public may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

STATUS: This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

PUBLIC COMMENT: The public is invited to submit written statements to the Committee. Written statements should be received on or before December 6, 2023.

Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Electronic Statements

- Paper Statements. Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

The Commission will post all statements on the Commission's website. Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Operating conditions may limit access to the Commission's Public Reference Room. Do not include personal information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright.

MATTERS TO BE CONSIDERED: The agenda for the meeting includes: welcome and introductory remarks; opening remarks; approval of previous meeting minutes; a panel discussion regarding practical applications for enhancing financial literacy; a panel discussion examining the use of complex investment products and strategies by self-directed investors—is the current approach working; a discussion of a recommendation regarding digital engagement practices; subcommittee and working group reports; and a non-public administrative session.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: November 29, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–26547 Filed 11–29–23; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99028; File No. SR–CBOE–2023–061]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

November 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 15, 2023, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update its Fee Schedule to provide a 20% discount on fees assessed to Exchange Members and non-Members that purchase $20,000 or more of historical Open-Close Data, effective November 15, 2023 through December 31, 2023.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file, *e.g.,* request for Intraday Open-Close Data for month of June 2023 or End-of-Day Open-Close Data for month of June 2023). An ad-hoc request can be for any number of months for which the data is available.

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

The Exchange proposes to provide a temporary pricing incentive program in which Members or Non-Members that purchase historical Open-Close Data will receive a percentage fee discount where specific purchase thresholds are met. Specifically, the Exchange proposes to provide a 20% discount for ad-hoc purchases of historical Open-Close Data of $20,000 or more.[5] The proposed program will apply to all market participants irrespective of whether the market participant is a new or current purchaser; however, the discount cannot be combined with any other discounts offered by the Exchange, including the academic discount provided for Qualifying Academic Purchasers of historical Open-Close Data. The Exchange intends to introduce the discount program beginning

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Profile, GEMX Trade Profile data; open-close data from C2, EDGX, and BZX; Open Close Reports from MIAX Options, Pearl, and Emerald; and NYSE Options Open-Close Volume Summary.

[5] The discount will apply on an order-by-order basis. To qualify for the discount, an order must contain End-of-Day Ad-hoc Requests (historical data) and/or Intraday Ad-hoc Requests (historical data) and must total $20,000 or more; the Exchange will not aggregate purchases made throughout a billing cycle for purposes of the incentive program. The discount will apply to the total purchase price, once the $20,000 minimum purchase is satisfied (for example, a qualifying order of $25,000 would be discounted to $20,000, *i.e.* receive a 20% discount of $5,000).

November 15, 2023, with the program remaining in effect through December 31, 2023.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, purchasers of the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that purchasers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[9]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 15% of the market share.[10] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of historical Open-Close Data.

The Exchange believes that the proposed incentive program for any Member or non-Member who purchases historical Open-Close Data is reasonable because such purchasers would receive a 20% discount for purchasing $20,000 or more worth of historical Open-Close Data. The Exchange believes the proposed discount is reasonable as it will give purchasers the ability to use and test the historical Open-Close Data at a discounted rate, prior to purchasing additional months or a monthly subscription, and will therefore encourage and promote users to purchase the historical Open-Close Data. Further, the proposed discount is intended to promote increased use of the Exchange's historical Open-Close Data by defraying some of the costs a purchaser would ordinarily have to expend before using the data product. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who purchase historical Open-Close Data. Lastly, the purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Data, and the Exchange is not required to make the historical Open-Close Data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close Data. Moreover, purchase of Open-Close Data is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intermarket competition, as the proposed incentive program applies uniformly to any purchaser of historical Open-Close Data.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] *See* supra note 4.

[10] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (November 8, 2023), available at *https://markets.cboe.com/us/options/market_statistics/*.

[11] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2023–061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBOE–2023–061. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2023–061 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26492 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99030; File No. SR–CboeBZX–2023–072]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the Franklin Bitcoin ETF Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

November 28, 2023.

On September 26, 2023, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Franklin Bitcoin ETF (''Fund'') under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The proposed rule change was published for comment in the **Federal Register** on October 3, 2023.[3]

On November 15, 2023, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Fund, a series of the Franklin Templeton Digital Holdings Trust (''Trust''), under BZX Rule 14.11(e)(4), which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.

The investment objective of the Fund is to generally reflect the performance of the price of bitcoin before payment of the Fund's expenses.[8] The Fund's assets will consist of bitcoin held by the Fund's bitcoin custodian on behalf of the Fund and cash holdings, if any, held by the Fund's cash custodian.[9] The Fund will value its Shares daily based on the value of bitcoin as reflected by the CME CF Bitcoin Reference Rate (''Reference Rate'').[10] The administrator for the Fund will determine the net asset value (''NAV'') of the Fund on each day that the Exchange is open for regular trading, as promptly as practicable after 4:00 p.m. ET.[11] In determining the Fund's NAV, the administrator for the Fund will value the bitcoin held by the Fund based on the price set by the Reference Rate as of 4:00 p.m. ET.[12] When the Fund sells or redeems its Shares, it will do so in ''in-kind'' transactions with authorized participants in large blocks of Shares.[13]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98562 (Sept. 27, 2023), 88 FR 68240 (''Notice''). The Commission has received no comments on the proposal.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98945, 88 FR 81150 (Nov. 21, 2023). The Commission designated January 1, 2024, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] *See id.* at 68250. Franklin Holdings, LLC (''Sponsor'') is the sponsor of the Fund. *See id.* at 68241.

[9] *See id.* at 68249. In seeking to achieve its investment objective, the Fund will hold bitcoin and may hold cash or cash equivalents. Coinbase Custody Trust Company, LLC will be responsible for custody of the Fund's bitcoin holdings and Bank of New York Mellon will be the custodian for the Fund's cash holdings, if any. *See id.* at 68241, 68250.

[10] *See id.* at 68250.

[11] *See id.* at 68251.

[12] *See id.*

[13] *See id.* at 68249–50, 68251.

II. Proceedings To Determine Whether To Approve or Disapprove SR–CboeBZX–2023–072 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [14] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[15] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [16]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

1. What are commenters' views on whether the proposed Fund and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets and the bitcoin markets' susceptibility to manipulation?

2. Based on data and analysis provided and the academic research cited by the Exchange,[17] do commenters agree with the Exchange that the Chicago Mercantile Exchange, Inc. (''CME''), on which CME bitcoin futures trade, represents a regulated market of significant size related to spot bitcoin? [18] What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on the CME to manipulate the Shares? [19] Do commenters agree with the Exchange that trading in the Shares would not be the predominant influence on prices in the CME bitcoin futures market? [20]

3. The Exchange states that bitcoin is resistant to price manipulation and that other means to prevent fraudulent and manipulative acts and practices ''exist to justify dispensing with the requisite surveillance sharing agreement'' with a regulated market of significant size related to spot bitcoin.[21] In support, the Exchange states, among other things, that the geographically diverse and continuous nature of bitcoin trading make it difficult and prohibitively costly to manipulate the price of bitcoin, and that the fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging.[22] The Exchange also states that offering only in-kind creations and redemptions provides ''unique protections against potential attempts to manipulate the price of the Shares'' and that the price the Sponsor uses to value the Fund's bitcoin ''is not particularly important.'' [23] Do commenters agree with the Exchange's statements regarding the bitcoin market's resistance to price manipulation?

4. The Exchange also states that it will execute a surveillance-sharing agreement with Coinbase, Inc. (''Coinbase'') that is intended to supplement the Exchange's market surveillance program.[24] According to the Exchange, the agreement is ''expected to have the hallmarks of a surveillance-sharing agreement between two members of the [Intermarket Surveillance Group], which would give the Exchange supplemental access to data regarding spot [b]itcoin trades on Coinbase where the Exchange determines it is necessary as part of its surveillance program for the Shares.'' [25] Based on the description of the surveillance-sharing agreement as provided by the Exchange, what are commenters' views of such an agreement if finalized and executed? Do commenters agree with the Exchange that such an agreement with Coinbase would be ''helpful in detecting, investigating, and deterring fraud and market manipulation in the Shares''? [26]

5. Some sponsors of proposed spot bitcoin exchange-traded products have also provided data regarding the correlation between certain bitcoin spot markets and the CME bitcoin futures market.[27] What are commenters' views on the correlation between the bitcoin spot market and the CME bitcoin futures market? What are commenters' views on the extent to which that correlation provides evidence that the CME bitcoin futures market is ''significant'' related to spot bitcoin?

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[28]

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[14] 15 U.S.C. 78s(b)(2)(B).

[15] *Id.*

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Notice, 88 FR at 68246–48.

[18] *See id.* at 68248.

[19] *See id.* at 68253.

[20] *See id.*

[21] *See id.* at 68248 n.52.

[22] *See id.*

[23] *See id.* at 68253.

[24] *See id.* at 68249.

[25] *See id.* The Exchange states that ''[t]his means that the Exchange expects to receive market data for orders and trades from Coinbase, which it will utilize in surveillance of the trading of the Shares.'' *Id.*

[26] *See id.*

[27] *See, e.g.,* Notice of Filing of Amendment No. 3 to, and Order Instituting Proceedings to Determine Whether to Approve or Disapprove, a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 98112 (Aug. 11, 2023), 88 FR 55743 (Aug. 16, 2023) (including data from sponsor 21Shares US LLC that purports to show correlations of returns across the two-year period from January 20, 2021, to February 1, 2023, of no less than 92% among certain spot bitcoin platforms and between the CME bitcoin futures market and such spot bitcoin platforms on an hourly basis, and no less than 78% on a minutely basis).

[28] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written

Continued

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by December 22, 2023. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 5, 2024.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBZX–2023–072 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2023–072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2023–072 and should be submitted on or before December 22, 2023. Rebuttal comments should be submitted by January 5, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26488 Filed 11–30–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–813, OMB Control No. 3235–0765]

Submission for OMB Review; Comment Request; Extension: Rule 498A

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''Paperwork Reduction Act'') (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 498A under the Securities Act permits a person to satisfy its prospectus delivery obligations under section 5(b)(2) of the Securities Act for a contract by: (1) sending or giving to new investors key information contained in a variable contract statutory prospectus in the form of an initial summary prospectus; (2) sending or giving to existing investors each year a brief description of certain changes to the contract, and a subset of the information in the initial summary prospectus, in the form of an updating summary prospectus; and (3) providing the statutory prospectus and other materials online. Rule 498A considers a person to have met its prospectus delivery obligations for any portfolio companies associated with a variable contract if the portfolio company prospectuses are posted online. Under the rule, a registrant (or the financial intermediary distributing the variable contract) relying on the rule must send the variable contract statutory prospectus (that statutory prospectus must be filed as part of registration statement on Form N–3, N–4, or N–6, as applicable) and other materials to an investor in paper or electronic format upon request.

Based on an analysis of fund filings, we estimate that 82% of variable contracts that filed annual updates to their registration statements use at least one summary prospectus under rule 498A. In the aggregate, the Commission staff estimates the total annual hour burden to comply with rule 498A to be 7,634 hours, at an internal time cost equivalent of $2,337,471, and a total annual external cost burden of $9,094,866.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study.

Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by January 2, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: November 27, 2023.

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26405 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[29] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99019; File No. SR–NYSEARCA–2023–37]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the COtwo Advisors Physical European Carbon Allowance Trust Under NYSE Arca Rule 8.201–E

November 27, 2023.

On May 23, 2023, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the COtwo Advisors Physical European Carbon Allowance Trust under NYSE Arca Rule 8.201–E. The proposed rule change was published for comment in the **Federal Register** on June 12, 2023.[3]

On July 25, 2023, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On September 6, 2023, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.[7] On September 29, 2023, the Exchange submitted Amendment No. 1 to the proposed rule change, and on October 20, 2023, the Exchange withdrew Amendment No. 1. The Commission has not received any comment letters on the proposal.

Section 19(b)(2) of the Act [8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on June 12, 2023. December 9, 2023 is 180 days from that date, and February 7, 2024 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[9] designates February 7, 2024 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEARCA–2023–37).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26389 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 97653 (June 6, 2023), 88 FR 38110.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 97972, 88 FR 49508 (July 31, 2023).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 98302, 88 FR 62608 (September 12, 2023).

[8] 15 U.S.C. 78s(b)(2).

[9] *Id.*

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99025; File No. SR–C2–2023–023]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Fees Schedule

November 28, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 15, 2023, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend its Fee Schedule. The text of the proposed rule change is in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update its Fee Schedule to provide a 20% discount on fees assessed to Exchange Members and non-Members that purchase $20,000 or more of historical Open-Close Data, effective November 15, 2023 through December 31, 2023.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file, *e.g.,* request for Intraday Open-Close Data for month of June 2023 or End-of-Day Open-Close Data for month of June 2023). An ad-hoc request can be for any number of months for which the data is available.

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

The Exchange proposes to provide a temporary pricing incentive program in which Members or Non-Members that purchase historical Open-Close Data will receive a percentage fee discount where specific purchase thresholds are met. Specifically, the Exchange proposes to provide a 20% discount for ad-hoc purchases of historical Open-Close Data of $20,000 or more.[5] The proposed program will apply to all market participants irrespective of whether the market participant is a new or current purchaser; however, the discount cannot be combined with any other discounts offered by the Exchange, including the academic discount provided for Qualifying Academic Purchasers of historical Open-Close Data. The Exchange intends to introduce the discount program beginning November 15, 2023, with the program remaining in effect through December 31, 2023.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, purchasers of the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that purchasers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 15% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Profile, GEMX Trade Profile data; open-close data from Cboe Options, EDGX, and BZX; Open Close Reports from MIAX Options, Pearl, and Emerald; and NYSE Options Open-Close Volume Summary.

[5] The discount will apply on an order-by-order basis. To qualify for the discount, an order must contain End-of-Day Ad-hoc Requests (historical data) and/or Intraday Ad-hoc Requests (historical data) and must total $20,000 or more; the Exchange will not aggregate purchases made throughout a billing cycle for purposes of the incentive program. The discount will apply to the total purchase price, once the $20,000 minimum purchase is satisfied (for example, a qualifying order of $25,000 would be discounted to $20,000, *i.e.* receive a 20% discount of $5,000).

[6] As part of the proposed rule change, the Exchange also proposes to delete obsolete language related to a free trial that was offered for the months of September through December 2022 for up to 3 months of Intraday Open-Close Historical Data, as the offering is no longer in effect.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 2.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (November 8, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of historical Open-Close Data. The Exchange believes that the proposed incentive program for any Member or non-Member who purchases historical Open-Close Data is reasonable because such purchasers would receive a 20% discount for purchasing $20,000 or more worth of historical Open-Close Data. The Exchange believes the proposed discount is reasonable as it will give purchasers the ability to use and test the historical Open-Close Data at a discounted rate, prior to purchasing additional months or a monthly subscription, and will therefore encourage and promote users to purchase the historical Open-Close Data. Further, the proposed discount is intended to promote increased use of the Exchange's historical Open-Close Data by defraying some of the costs a purchaser would ordinarily have to expend before using the data product. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who purchase historical Open-Close Data. Lastly, the purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Data, and the Exchange is not required to make the historical Open-Close Data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close Data. Moreover, purchase of Open-Close Data is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intermarket competition, as the proposed incentive program applies uniformly to any purchaser of historical Open-Close Data.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–C2–2023–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–C2–2023–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–C2–2023–023 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99029; File No. SR–ISE–2023–30]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 4, Section 5 Related to a Low Priced Stock Strike Price Interval Program

November 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 20, 2023, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 4, Section 5, Series of Options Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 4, Section 5, Series of Options Contracts Open for Trading. Miami International Securities Exchange, LLC (''MIAX'') recently received approval to amend its Rule 404 to implement a new strike interval program for stocks that are priced less than $2.50 and have an average daily trading volume of at least 1,000,000 shares per day for the 3 preceding calendar months.[3] At this time, the Exchange proposes to adopt rules substantively identical to MIAX at new Supplementary Material .08 to Options 4, Section 5 and also amend Supplementary Material .07 to Options 4, Section 5 to harmonize the table to the proposed rule text.

Background

Currently, Options 4, Section 5, Series of Options Contracts Open for Trading, describes the process and procedures for listing and trading series of options[4] on the Exchange. Supplementary Material .02 to Options 4, Section 5 provides for a $2.50 Strike Price Program, where the Exchange may select up to 60 option classes[5] on individual stocks for which the interval of strike prices will be $2.50 where the strike price is greater than $25.00 but less than $50.00.[6] Supplementary Material .01 to Options 4, Section 5 also provides for a $1 Strike Price Interval Program, where the interval between strike prices of series of options[7] on individual stocks may be $1.00 or greater provided the strike price is $50.00 or less, but not less than $1.00.[8] Additionally, Supplementary Katerial .05 to Options 4, Section 5 provides for a $0.50 Strike Program.[9] The interval of strike prices of series of options on individual stocks may be $0.50 or greater beginning at $0.50 where the strike price is $5.50 or less, but only for options classes whose underlying security closed at or below $5.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. The listing of $0.50 strike prices is limited to options classes overlying no more than 20 individual stocks (the ''$0.50 Strike Program'') as specifically designated by the Exchange. The Exchange may list $0.50 strike prices on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar $0.50 Strike Program under their respective rules. A stock shall remain in the $0.50 Strike Program until otherwise designated by the Exchange.[10]

Proposal

At this time, the Exchange proposes to adopt a new strike interval program for stocks that are not in the aforementioned $0.50 Strike Program (or the Short Term Option Series Program)[11] and that close below $2.50 and have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months. The $0.50 Strike Program considers stocks that have a closing price at or below $5.00 whereas the Exchange's proposal will consider stocks that have a closing price below $2.50. Currently, there is a subset of stocks that are not included in the $0.50 Strike Program as a result of the limitations of that program which provides that the listing of $0.50 strike prices shall be limited to option classes overlying no more than 20 individual stocks as specifically designated by the Exchange and requires a national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months.[12] Therefore, the Exchange is proposing to implement a new strike interval program termed the ''Low Priced Stock Strike Price Interval Program.''

To be eligible for the inclusion in the Low Priced Stock Strike Price Interval Program, an underlying stock must (i) close below $2.50 in its primary market on the previous trading day; and (ii) have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months. The Exchange notes that there is no limit to the number of classes that will be eligible for inclusion in the proposed program, provided, of course, that the underlying stocks satisfy both the price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98917 (November 13, 2023), 88 FR 80361 (November 17, 2023) (SR–MIAX–2023–36) (Order Approving a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading).

[4] The term ''options contract'' means a put or a call issued, or subject to issuance by the Clearing Corporation pursuant to the Rules of the Clearing Corporation. *See* Options 1, Section 1(a)(31).

[5] The terms ''class of options'' means all options contracts covering the same underlying security. *See* Options 1, Section 1(a)(8).

[6] *See* Supplementary Material .02 to Options 4, Section 5.

[7] The term ''series of options'' means all options contracts of the same class having the same exercise price and expiration date. *See* Options 1, Section 1(a)(47).

[8] *See* Supplementary Material .01(a) to Options 4, Section 5.

[9] *See* Supplementary Material .05 to Options 4, Section 5.

[10] *Id.*

[11] *See* Supplementary Material .03 to Options 4, Section 5.

[12] *See* Supplementary Material .05 to Options 4, Section 5.

and average daily trading volume requirements of the proposed program.

The Exchange also proposes that after a stock is added to the Low Priced Stock Strike Price Interval Program, the Exchange may list $0.50 strike price intervals from $0.50 up to $2.00.[13] For the purpose of adding strikes under the Low Priced Stock Strike Price Interval Program, the ''price of the underlying stock'' shall be measured in the same way as ''the price of the underlying security'' as set forth in Options 4, Section 6(b)(i).[14] Further, no additional series in $0.50 intervals may be listed if the underlying stock closes at or above $2.50 in its primary market. Additional series in $0.50 intervals may not be added until the underlying stock again closes below $2.50.

The Exchange's proposal addresses a gap in strike coverage for low priced stocks. The $0.50 Strike Program considers stocks that close below $5.00 and limits the number of option classes listed to no more than 20 individual stocks (provided that the open interest criteria is also satisfied). Whereas, the Exchange's proposal has a narrower focus, with respect to the underlying's stock price, and is targeted on those stocks that close below $2.50 and does not limit the number of stocks that may participate in the program (provided that the average daily trading volume is also satisfied). The Exchange does not believe that any market disruptions will be encountered with the addition of these new strikes. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Low Priced Stock Strike Price Interval Program.

The Exchange believes that its average daily trading volume requirement of 1,000,000 shares is a reasonable threshold to ensure adequate liquidity in eligible underlying stocks as it is substantially greater than the thresholds used for listing options on equities, American Depository Receipts, and broad-based indexes. Specifically, underlying securities with respect to which put or call option contracts are approved for listing and trading on the Exchange must meet certain criteria as determined by the Exchange. One of those requirements is that trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.[15] Options 4, Section 3(f) provides the criteria for listing options on American Depositary Receipts (''ADRs'') if they meet certain criteria and guidelines set forth in Options 4, Section 3 One of the requirements is that the average daily trading volume for the security in the U.S. markets over the three (3) months preceding the selection of the ADR for options trading is 100,000 or more shares.[16] Finally, the Exchange may trade options on a broad-based index pursuant to Rule 19b–4(e) of the Act provided a number of conditions are satisfied. One of those conditions is that each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period.[17]

Additionally, the Exchange proposes to amend the table in Supplementary Material .07 of Options 4, Section 5 to insert a new column to harmonize the Exchange's proposal to the strike intervals for Short Term Options Series as described in Supplementary Material .03 to Options 4, Section 5. The table in Supplementary Material .03 is intended to limit the intervals between strikes for multiply listed equity options within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing date. Specifically, the table defines the applicable strike intervals for options on underlying stocks given the closing price on the primary market on the last day of the calendar quarter, and a corresponding average daily volume of the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter.[18] However, the lowest share price column is titled ''less than $25.'' The Exchange now proposes to insert a column titled ''Less than $2.50'' and to set the strike interval at $0.50 for each average daily volume tier represented in the table. Also, the Exchange proposes to amend the heading of the column currently titled ''less than $25,'' to ''$2.50 to less than $25'' as a result of the adoption of the new proposed column, ''Less than $2.50.'' The Exchange believes this change will remove any potential conflict between the strike intervals under the Short Term Options Series Program and those described herein under the Exchange's proposal.

Impact of Proposal

The Exchange recognizes that its proposal will introduce new strikes in the marketplace and further acknowledges that there has been significant effort undertaken by the industry to curb strike proliferation. This initiative has been spearheaded by Nasdaq BX, Inc. (''BX'') when it filed an initial proposal focused on the removal, and prevention of the listing, of strikes which are extraneous and do not add value to the marketplace (the ''Strike Interval Proposal'').[19] The Strike Interval Proposal was intended to remove repetitive and unnecessary strike listings across the weekly expiries. Specifically, the Strike Interval Proposal aimed to reduce the density of strike intervals that would be listed in the later weeks, by creating limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date.[20] The Strike Interval Proposal took into account OCC customer-cleared volume, using it as an appropriate proxy for demand. The Strike Interval Proposal was designed to maintain strikes where there was customer demand and eliminate strikes where there was not demand. At the time of its proposal, BX estimated that the Strike Interval Proposal would reduce the number of listed strikes in the options market by approximately 81,000 strikes.[21] The Exchange proposes to amend the table to define the strike interval at $0.50 for underlying stocks with a share price of less than $2.50. The Exchange believes this amendment will harmonize the Exchange's proposal with the Strike Interval Proposal described above.

The Exchange recognizes that its proposal will moderately increase the total number of option series available on the Exchange. However, the Exchange's proposal is designed to only add strikes where there is investor demand[22] which will improve market

[13] While the Exchange may list new strikes on underlying stocks that meet the eligibility requirements of the new program the Exchange will exercise its discretion and will not list strikes on underlying stocks the Exchange believes are subject to imminent delisting from their primary exchange.

[14] The Exchange notes this is the same methodology used in the $1 Strike Price Interval Program. *See* Supplementary Material .01(b)(3) of Options 4, Section 5.

[15] *See* Options 4, Section 3(b)(4).

[16] *See* Options 4, Section 3(f)(3)(ii).

[17] *See* Options 4A, Section 3(d)(7).

[18] *See* Securities Exchange Release Act No. 91125 (February 21, 2021), 86 FR 10375 (February 19, 2021) (SR–BX–2020–032) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Options 4, Section 5, To Limit Short Term Options Series Intervals Between Strikes That Are Available for Quoting and Trading on BX) (''BX–2020–032'').

[19] *See* BX–2020–032. *See also https://www.nasdaq.com/solutions/bx-options-strike-proliferation-proposal.*

[20] *See* BX–2020–032.

[21] *See* BX–2020–032.

[22] *See* proposed Supplementary Material .08(a) of Options 4, Section 5 that requires that *an* underlying stock must (i) close below $2.50 in its primary market on the previous trading day; and (ii)

Continued

quality. Under the requirements for the Low Priced Stock Strike Price Interval Program as described herein, MIAX determined that as of August 9, 2023, 106 symbols met the proposed criteria. Of those symbols, MIAX noted that 36 are currently in the $1 Strike Price Interval Program with $1.00 and $2.00 strikes listed. Under the Exchange's proposal, the $0.50 and $1.50 strikes for these symbols would be added for the current expiration terms. Similar to MIAX, the remaining 70 symbols eligible under the proposal would have $0.50, $1.00, $1.50 and $2.00 strikes added to their current expiration terms. Therefore, MIAX noted that for the 106 symbols eligible for the Low Priced Stock Strike Price Interval Program, a total of approximately 3,250 options would be added. As of August 9, 2023, MIAX noted it listed 1,106,550 options, and therefore, the additional options that would be listed under this proposal would represent a relatively minor increase of 0.294% in the number of options listed.

The Exchange does not believe that its proposal contravenes the industry's efforts to curtail unnecessary strikes. The Exchange's proposal is targeted to only underlying stocks that close at less than $2.50 and that also meet the average daily trading volume requirement. Additionally, because the strike increment is $0.50 there are only a total of four strikes that may be listed under the program ($0.50, $1.00, $1.50, and $2.00) for an eligible underlying stock. Finally, if an eligible underlying stock is in another program (*e.g.,* the $0.50 Strike Program or the $1 Strike Price Interval Program) the number of strikes that may be added is further reduced if there are pre-existing strikes as part of another strike listing program. Therefore, the Exchange does not believe that it will list any unnecessary or repetitive strikes as part of its program, and that the strikes that will be listed will improve market quality and satisfy investor demand.

The Exchange further believes that the Options Price Reporting Authority (''OPRA''), has the necessary systems capacity to handle any additional messaging traffic associated with this proposed rule change. The Exchange also believes that Members will not have a capacity issue as a result of the proposed rule change. Finally, the Exchange believes that the additional options will serve to increase liquidity, provide additional trading and hedging opportunities for all market participants, and improve market quality.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[23] in general, and furthers the objectives of Section 6(b)(5) of the Act,[24] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section (6)(b)(5)[25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system as the Exchange has identified a subset of stocks that are trading under $2.50 and do not have meaningful strikes available. For example, on August 9, 2023, symbol SOND closed at $0.50 and had open interest of over 44,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months.[26] Currently the lowest strike listed is for $2.50, making the lowest strike 400% away from the closing stock price. Another symbol, CTXR, closed at $0.92 on August 9, 2023, and had open interest of 63,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months.[27] Similarly, the lowest strike listed is for $2.50, making the lowest strike more than 170% away from the closing stock price. Currently, such products have no at-the-money options, as well as no in-the-money calls or out-of-the-money puts. The Exchange's proposal will provide additional strikes in $0.50 increments from $0.50 up to $2.00 to provide more meaningful trading and hedging opportunities for this subset of stocks. Given the increased granularity of strikes as proposed under the Exchange's proposal out-of-the-money puts and in-the-money calls will be created. The Exchange believes this will allow market participants to tailor their investment and hedging needs more effectively.

The Exchange believes its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by adding strikes that improves market quality and satisfies investor demand. The Exchange does not believe that the number of strikes that will be added under the program will negatively impact the market. Additionally, the proposal does not run counter to the efforts undertaken by the industry to curb strike proliferation as that effort focused on the removal and prevention of extraneous strikes where there was no investor demand. The Exchange's proposal requires the satisfaction of an average daily trading volume threshold in addition to the underlying stock closing at a price below $2.50 to be eligible for the program. The Exchange believes that the average daily trading volume threshold of the program ensures that only strikes with investor demand will be listed and fills a gap in strike interval coverage as described above. Further, being that the strike interval is $0.50, there are only a maximum of four strikes that may be added ($0.50, $1.00, $1.50, and $2.00). Therefore, the Exchange does not believe that its proposal will undermine the industry's efforts to eliminate repetitive and unnecessary strikes in any fashion.

The Exchange believes that its average daily trading volume threshold promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest as it is designed to permit only those stocks with demonstrably high levels of trading activity to participate in the program. The Exchange notes that its average daily trading volume requirement is substantially greater than the average daily trading requirement currently in place on the Exchange for options on

have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78(f)(b)(5).

[26] *See* Yahoo! Finance, *https://finance.yahoo.com/quote/SOND/history?p=SOND* (last visited August 10, 2023).

[27] *See* Yahoo! Finance, *https://finance.yahoo.com/quote/CTXR/history?p=CTXR* (last visited August 10, 2023).

equity underlyings,[28] ADRs,[29] and broad-based indexes.[30]

The Exchange believes that the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The proposed rule change allows the Exchange to respond to customer demand to provide meaningful strikes for low priced stocks. The Exchange does not believe that the proposed rule would create any capacity issue or negatively affect market functionality. Additionally, the Exchange represents that it has the necessary systems capacity to support the new options series and handle additional messaging traffic associated with this proposed rule change. The Exchange also believes that its Members will not experience any capacity issues as a result of this proposal. In addition, the Exchange represents that it believes that additional strikes for low priced stocks will serve to increase liquidity available as well as improve price efficiency by providing more trading opportunities for all market participants. The Exchange believes that the proposed rule change will benefit investors by giving them increased opportunities to execute their investment and hedging decisions.

Finally, the Exchange believes its proposal is designed to prevent fraudulent and manipulative acts and practices as options may only be listed on underlyings that satisfy the listing requirements of the Exchange as described in Options 4, Section 3, Criteria for Underlying Securities. Specifically, Options 4, Section 3 requires that underlying securities for which put or call option contracts are approved for listing and trading on the Exchange must meet the following criteria: (1) the security must be registered and be an ''NMS stock'' as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.[31] Additionally, Options 4, Section 3 provides that absent exceptional circumstances, an underlying security will not be selected for options transactions unless: (1) there are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange Act; (2) there are a minimum of 2,000 holders of the underlying security; (3) the issuer is in compliance with any applicable requirements of the Exchange Act; and (4) trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.[32] The Exchange's proposal does not impact the eligibility of an underlying stock to have options listed on it, but rather addresses only the listing of new additional option classes on an underlying listed on the Exchange in accordance to the Exchange's listings rules. As such, the Exchange believes that the listing requirements described in Options 4, Section 3 address potential concerns regarding possible manipulation. Additionally, in conjunction with the proposed average daily volume requirement described herein, the Exchange believes any possible market manipulation is further mitigated.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as the Rules of the Exchange apply equally to all Members of the Exchange and all Members may trade the new proposed strikes if they so choose. Specifically, the Exchange believes that investors and market participants will significantly benefit from the availability of finer strike price intervals for stocks priced below $2.50, which will allow them to tailor their investment and hedging needs more effectively. The Exchange's proposal is substantively identical to MIAX Interpretations and Policies .11 and .12 to Rule 404.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition, as nothing prevents other options exchanges from proposing similar rules to list and trade options on low priced stocks. Rather the Exchange believes that its proposal will promote inter-market competition, as the Exchange's proposal will result in additional opportunities for investors to achieve their investment and trading objectives, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[33] and Rule 19b–4(f)(6)[34] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[35]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[36] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes it has approved a proposed rule change substantially identical to the one proposed by the Exchange.[37] The proposed change raises no novel legal or regulatory issues. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[38]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[28] *See supra* note 15.

[29] *See supra* note 16.

[30] *See supra* note 17.

[31] *See* Options 4, Section 3(a)(1) and (2).

[32] *See* Options 4, Section 3(b)(1), (2), (3) and (4).

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6).

[35] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[36] 17 CFR 240.19b–4(f)(6)(iii).

[37] *See supra* note 3.

[38] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–ISE–2023–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–ISE–2023–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ISE–2023–30 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26486 Filed 11–30–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99024; File No. SR–ISE–2023–28]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Options 7

November 28, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 13, 2023, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Options 7. Each change is described below.

The Exchange initially filed the proposed pricing changes on November 1, 2023 (SR–ISE–2023–26). On November 13, 2023, the Exchange withdrew that filing and submitted this filing.

Background

Regular Order Fees and Rebates

As set forth in Options 7, Section 3, the Exchange currently has a maker/taker pricing model where all market participants (except Priority Customers)[3] are assessed a uniform Regular Order maker fee of $0.70 per contract for Non-Select Symbol[4] executions that add liquidity on the Exchange, and a uniform Regular Order taker fee of $0.90 per contract for Non-Select Symbol executions that remove liquidity. Priority Customers are currently assessed a $0.86 per contract Regular Order maker rebate in Non-Select Symbols and a $0.00 per contract Regular Order taker fee in Non-Select Symbols. Additionally, all market participants are charged higher Regular Order taker fees for trades in Non-Select Symbols executed against Priority Customers. Specifically, Non-Priority Customers[5] are charged a taker fee of $1.10 per contract for trades executed against a Priority Customer, while Priority Customers are charged a taker fee of $0.86 per contract for trades executed against another Priority Customer.[6]

As it relates to the $0.86 per contract Priority Customer Regular Order maker

[39] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Options 1, Section 1(a)(37).

[4] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols. ''Select Symbols'' are options overlying all symbols listed on the Exchange that are in the Penny Interval Program.

[5] ''Non-Priority Customers'' include Market Makers, Non-Nasdaq ISE Market Makers (FarMMs), Firm Proprietary/Broker-Dealers, and Professional Customers.

[6] *See* Options 7, Section 3, note 3.

rebate described above, the Exchange also currently offers Members an additional rebate of $0.14 per contract if they execute more than 0.06% of Regular Order Non-Select Symbol Priority Customer volume (excluding Crossing Orders [7] and Responses to Crossing Orders) [8] calculated as a percentage of Customer Total Consolidated Volume [9] per day in a given month (''Note 15 Incentive'').[10] The Note 15 Incentive is designed to encourage Members to transact in greater Regular Order Non-Select Symbol Priority Customer volume on the Exchange to receive rebates up to $1.00 per contract (*i.e.,* the current $0.86 base maker rebate plus the additional $0.14 Note 15 Incentive).

Complex Order Fees and Rebates

As set forth in Options 7, Section 4, the Exchange currently offers tiered Complex Order Priority Customer rebates for Select Symbols and Non-Select Symbols based on the Priority Customer Complex Tier achieved.[11] The tiered Complex Order Priority Customer rebates for Select Symbols and Non-Select Symbols are presently as follows:

TOTAL AFFILIATED MEMBER OR AFFILIATED ENTITY COMPLEX ORDER VOLUME

[Excluding Crossing Orders and Responses to Crossing Orders]

Priority customer complex tier	Calculated as a percentage of customer total consolidated volume	Rebate for select symbols	Rebate for non-select symbols
Tier 1	0.000%–0.200%	($0.25)	($0.40)
Tier 2	Above 0.200%–0.400%	(0.30)	(0.55)
Tier 3	Above 0.400%–0.450%	(0.35)	(0.70)
Tier 4	Above 0.450%–0.750%	(0.40)	(0.75)
Tier 5	Above 0.750%–1.000%	(0.45)	(0.80)
Tier 6	Above 1.000%–1.350%	(0.48)	(0.85)
Tier 7	Above 1.350%–1.750%	(0.51)	(0.92)
Tier 8	Above 1.750%–2.750%	(0.55)	(1.03)
Tier 9	Above 2.750%–4.500%	(0.56)	(1.04)
Tier 10	Above 4.500%	(0.57)	(1.05)

The above rebates are provided per contract per leg if the order trades with Non-Priority Customer orders in the Complex Order Book. Today, this rebate is reduced by $0.15 per contract in Select Symbols where the largest leg of the Complex Order is under fifty (50) contracts and trades with quotes and orders on the regular order book (the ''Note 1 Rebate Discount''). No Priority Customer Complex Order rebates are provided in Select Symbols if any leg of the order that trades with interest on the regular order book is fifty (50) contracts or more. Lastly, no Priority Customer Complex Order rebates are provided in Non-Select Symbols if any leg of the order trades with interest on the regular order book, irrespective of order size.[12]

Separately, the Exchange currently assesses Complex Order maker and taker fees for Select and Non-Select Symbols based on the pricing schedule below:

MAKER AND TAKER FEES

Market participant	Maker fee for select symbols	Maker fee for non-select symbols	Maker fee for select symbols when trading against priority customer	Maker fee for non-select symbols when trading against priority customer	Taker fee for select symbols	Taker fee for non- select symbols
Market Maker	0.10	0.20	0.50	0.86	0.50	0.98
Non-Nasdaq ISE Market Maker (FarMM)	0.20	0.20	0.50	0.88	0.50	0.98
Firm Proprietary/Broker-Dealer	0.10	0.20	0.50	0.88	0.50	0.98
Professional Customer	0.10	0.20	0.50	0.88	0.50	0.98
Priority Customer	0.00	0.00	0.00	0.00	0.00	0.00

Proposal 1—Regular Priority Customer Maker Rebates in Non-Select Symbols

The Exchange proposes to increase the Regular Order Non-Select Symbol Priority Customer maker rebate in Options 7, Section 3 from $0.86 to $1.00 per contract.

Proposal 2—Note 15 Incentive

The Exchange also proposes to amend the qualifications for the Note 15 Incentive by increasing the volume

[7] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (PIM) or submitted as a Qualified Contingent Cross order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[8] ''Responses to Crossing Order'' is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

[9] ''Customer Total Consolidated Volume'' means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

[10] *See* Options 7, Section 3, note 15.

[11] Priority Customer Complex Tiers are based on Total Affiliated Member or Affiliated Entity Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members, is included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. Affiliated Entities may aggregate their Complex Order volume for purposes of calculating Priority Customer Rebates. The Appointed OFP would receive the rebate associated with the qualifying volume tier based on aggregated volume. *See* Options 7, Section 4, note 16.

[12] See Options 7, Section 4, note 1.

threshold from 0.06% to 0.10% of Regular Order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month. While the Exchange is increasing the volume threshold in the Note 15 Incentive, the Exchange is not amending the $0.14 per contract additional rebate under this proposal. As such, Members that meet the proposed volume threshold may be eligible for rebates up to $1.14 per contract (*i.e.,* the proposed $1.00 base maker rebate plus the additional $0.14 Note 15 Incentive) on their Priority Customer Regular Orders in Non-Select Symbols that add liquidity on ISE.

Further, the Exchange proposes to link the amended Note 15 Incentive to the Priority Customer Complex Order rebates in Options 7, Section 4, as further described above. Specifically, Members that meet the amended Note 15 Incentive volume requirement (*i.e.,* execute more than 0.10% of regular order Non-Select Symbol Priority Customer volume on ISE (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month) will also be eligible to receive the Section 4 Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify. For example, if a Member currently qualifies for Priority Customer Complex Tier 1 AND meets the proposed 0.10% volume requirement in the Note 15 Incentive, that Member will be eligible to receive the Priority Customer Complex Tier 2 rebate for Select Symbols and Non-Select Symbols instead of the Priority Customer Complex Tier 1 rebate for Select Symbols and Non-Select Symbols. The Exchange also proposes that Members that already qualify for the highest Priority Customer Complex Tier (*i.e.,* Tier 10) will instead receive an additional rebate of $0.01 per contract in Select Symbols and Non-Select Symbols because they are already in the highest tier (and therefore unable to receive the benefit of a higher tier).[13]

In connection with linking the Note 15 Incentive with the Priority Customer Complex Order rebates in Options 7, Section 4, the Exchange also proposes to add new note 17 in Options 7, Section 4 that would provide: ''Members that execute more than 0.10% of Regular Order Non-Select Symbol Priority Customer Volume (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month will be eligible to receive the Priority Customer Complex Order rebates in Select Symbols and Non-Select Symbols that apply to one tier higher than the tier for which they currently qualify, except Members that already qualify for the highest Priority Customer Complex Tier will instead receive an additional rebate of $0.01 per contract in Select Symbols and Non-Select Symbols.'' New note 17 would make clear that the Priority Customer Complex Order rebates in Section 4 are linked to the proposed volume threshold in the note 15 incentive, as further described above.

Proposal 3—Regular Taker Fees in Non-Select Symbols

The Exchange proposes to increase the Regular Order taker fees in note 3 of Options 7, Section 3 for trades in Non-Select Symbols that are executed against Priority Customers. As proposed, Non-Priority Customer orders will be charged a taker fee of $1.25 (increased from $1.10) per contract for trades executed against a Priority Customer. Priority Customer orders will be charged a taker fee of $1.00 (increased from $0.86) per contract for trades executed against a Priority Customer.

Proposal 4—Complex Priority Customer Rebates

The Exchange proposes a number of adjustments to the tiered Priority Customer Complex Order rebates described above. Specifically, the Exchange proposes to increase the Priority Customer Complex Tier 7 rebate in Select Symbols from $0.51 to $0.54 per contract. The Exchange also proposes to increase the Priority Customer Complex Order rebates in Non-Select Symbols as follows: Tier 1 would increase from $0.40 to $0.50 per contract, Tier 2 would increase from $0.55 to $0.60 per contract, Tier 3 would increase from $0.70 to $0.75 per contract, Tier 4 would increase from $0.75 to $0.80 per contract, Tier 5 would increase from $0.80 to $0.85 per contract, Tier 6 would increase from $0.85 to $0.95 per contract, Tier 7 would increase from $0.92 to $1.00 per contract, Tier 8 would increase from $1.03 to $1.10 per contract, Tier 9 would increase from $1.04 to $1.12 per contract, and Tier 10 would increase from $1.05 to $1.15 per contract. The Exchange is amending the rebate amounts without changing the tier qualifications so that Members can send the same amount of order flow as they do today to receive larger rebates described above. Overall, the Exchange believes that these increased Complex Order Priority Customer rebates will attract more Complex Order flow to ISE.

The Exchange also proposes to increase the Note 1 Rebate Discount for smaller-sized Complex Orders in Select Symbols that leg into the regular order book and trade with regular interest. Today, the Note 1 Rebate Discount reduces the Priority Customer Complex Tiers 1–10 rebates for Select Symbols by $0.15 per contract when the largest leg of the Complex Order is under fifty (50) contracts and trades with quotes and orders on the regular order book. The Exchange now proposes to increase this reduction to $0.20 per contract.

Proposal 5—Complex Maker and Taker Fees in Non-Select Symbols

The Exchange proposes to increase the Complex Order maker and taker fees in Non-Select Symbols described above. Specifically, the Exchange proposes to increase the maker fees in Non-Select Symbols when trading against Priority Customers as follows: $0.86 to $1.03 per contract for Market Makers[14] and $0.88 to $1.05 per contract for all other Non-Priority Customers. Further, the Exchange proposes to increase the taker fees in Non-Select Symbols from $0.98 to $1.15 per contract for all Non-Priority Customers. Priority Customers will continue to receive free executions for their Complex Orders.

Proposal 6—Routing Fees

The Exchange proposes to amend the Exchange's Pricing Schedule at Options 7, Section 6.F (Route-Out Fees). The routing fees in this section apply to executions of orders in all symbols that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan.

Today, the Exchange assesses Market Makers, Non-Nasdaq ISE Market Makers (FarMM),[15] Firm Proprietary[16]/Broker-

[13] As discussed later in this filing, the Exchange is also proposing a number of changes to the Priority Customer Complex Order rebates for both Select and Non-Select Symbols in Options 7, Section 4.

[14] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Options 1, Section 1(a)(21).

[15] A ''Non-Nasdaq ISE Market Maker'' is a market maker as defined in section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[16] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

Dealers [17] and Professional Customers [18] a $0.55 per contract Select Symbol routing fee and a $1.09 Non-Select Symbol routing fee to route to another options exchange. Additionally, today, the Exchange assess Priority Customers a $0.48 per contract Select Symbol routing fee and a $0.70 Non-Select Symbol routing fee to route to another options exchange.

The Exchange now proposes to assess a $0.60 per contract Select Symbol routing fee and a $1.20 Non-Select Symbol routing fee to route to another options exchange, regardless of the capacity of the order. The purpose of the proposed routing fees is to recoup costs incurred by the Exchange when routing orders to other options exchanges on behalf of options Members. In determining its proposed routing fees, the Exchange took into account transaction fees assessed by other options exchanges, the Exchange's projected clearing costs, and the projected administrative, regulatory, and technical costs associated with routing orders to other options exchanges. The Exchange will continue to use its affiliated broker-dealer, Nasdaq Execution Services, to route orders to other options exchanges. Routing services offered by the Exchange are completely optional and market participants can readily select between various providers of routing services, including other exchanges and broker-dealers. Also, the Exchange notes that market participants may elect to mark their orders as ''Do-Not-Route'' to avoid any routing fees.[19] The proposed structure for routing fees is similar to another options market.[20] The Exchange believes that the proposed routing fees would enable the Exchange to recover the costs it incurs to route orders to away markets after taking into account the other costs associated with routing orders to other options exchanges.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[21] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[22] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . . .'' [23]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [24]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options security transaction services. The Exchange is only one of seventeen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

Proposal 1—Regular Priority Customer Maker Rebates in Non-Select Symbols

The Exchange believes that its proposal to increase the Regular Order Priority Customer maker rebate in Non-Select Symbols from $0.86 to $1.00 per contract is reasonable because Members will be further incentivized to add liquidity in Priority Customer Regular Orders in Non-Select Symbols in order to receive the increased rebate. The Exchange believes that this proposal is equitable and not unfairly discriminatory as all Priority Customers will be uniformly assessed the $1.00 maker rebate. The Exchange further believes that it is equitable and not unfairly discriminatory to provide only Priority Customers with this maker rebate because the Exchange has historically offered more favorable pricing for those market participants. In addition, increased Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may trade with this order flow.

Proposal 2—Note 15 Incentive

The Exchange believes that the proposed changes to the Note 15 Incentive are reasonable for the reasons that follow. As discussed above, the Exchange is increasing the volume threshold from 0.06% to 0.10% such that Members would now need to execute more than 0.10% of Regular Order Non-Select Symbol Priority Customer volume (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume per day in a given month in order to receive an additional rebate of $0.14 per contract. While the volume threshold is increasing under this proposal, the Exchange believes that Members will continue to be incentivized to increase market participation in Non-Select Symbol Priority Customer orders to qualify for the $0.14 additional Note 15 Incentive, especially in light of the significant increase in the base Non-Select Symbol Priority Customer maker rebate to $1.00 per contract as discussed above. Taken together, Members would be able to receive up to $1.14 per contract on their Priority Customer Regular Orders in Non-Select Symbols

[17] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[18] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer. *See* Options 7, Section 1(c).

[19] *See* Supplementary Material .04 to Options 3, Section 7.

[20] *See* MEMX's Options Fee Schedule at *https://info.memxtrading.com/us-options-trading-resources/us-options-fee-schedule/.* MEMX assesses a $0.60 per contract Penny Symbol routing fee and a $1.20 Non-Penny Symbol routing fee.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4) and (5).

[23] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[24] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

that add liquidity on ISE. The Exchange believes that increased Priority Customer order flow in Non-Select Symbols would create additional liquidity to the benefit of all market participants and investors that trade on the Exchange.

The Exchange also believes that linking the proposed volume threshold in the Note 15 Incentive to the Options 7, Section 4 Priority Customer Complex Order rebates in the manner described above is reasonable because the proposal may further incentivize Members to increase market participation in Priority Customer Regular Orders in Non-Select Symbols to receive the next higher Priority Customer Complex Tier rebate than the tier for which they currently qualify (or $0.01 additional rebate if they are already in the highest Priority Customer Complex Tier 10). The Exchange also believes that the proposal would incentivize Members to increase their Priority Customer Complex Order flow in both Select and Non-Select Symbols to the Exchange in order to qualify for a higher Priority Customer Complex Tier (which in turn could set the Member up to receive the next higher Priority Customer Complex Tier rebate—or an additional $0.01 rebate if they are already in Priority Customer Complex Tier 10—if they meet the proposed volume threshold in the amended Note 15 Incentive).

The Exchange believes that the proposed changes to the Note 15 Incentive as discussed above are equitable and not unfairly discriminatory because they will apply uniformly to all similarly situated market participants. The Exchange believes that it is equitable and not unfairly discriminatory to offer the Note 15 Incentive to only Priority Customers because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposal 3—Regular Taker Fees in Non-Select Symbols

The Exchange believes that its proposal to increase the Regular Order taker fees in note 3 of Options 7, Section 3 for trades in Non-Select Symbols that are executed against Priority Customers is reasonable because they are designed to offset the significant incentives that the Exchange is proposing for Priority Customer orders.[25] As discussed above, Non-Priority Customer orders will be charged a taker fee of $1.25 (increased from $1.10) per contract for trades executed against a Priority Customer. Priority Customer orders will be charged a taker fee of $1.00 (increased from $0.86) per contract for trades executed against a Priority Customer. The Exchange believes that Members will benefit from the additional liquidity created by the Priority Customer incentives proposed in this filing, and it is therefore appropriate to charge increased taker fees for trades executed against a Priority Customer.

The Exchange believes that its proposal to increase the taker fees in note 3 of Options 7, Section 3 for trades that are executed against Priority Customers is equitable and not unfairly discriminatory because the changes will apply uniformly to all similarly situated market participants. Priority Customers will continue to be charged a lower taker fee pursuant to note 3 compared to other market participants, which the Exchange believes is equitable and not unfairly discriminatory because the Exchange has historically provided Priority Customers with more favorable pricing. Furthermore, Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposal 4—Complex Priority Customer Rebates

The Exchange believes that its proposal to increase the tiered Priority Customer Complex Order rebates in the manner discussed above is reasonable because these increased Complex Order Priority Customer rebates will attract more Complex Order flow to ISE to the benefit of all market participants. The Exchange believes that each rebate is set at appropriate levels that will encourage market participants to increase their Priority Customer Complex Order activity on the Exchange. As noted above, the Exchange is amending the rebate amounts without changing the tier qualifications so that Members can send the same amount of order flow as they do today to receive larger rebates described above.

The Exchange also believes that its proposal to increase the Note 1 Rebate Discount for smaller-sized Complex Orders (*i.e.,* largest leg of the order is under fifty contracts) in Select Symbols that leg into the regular order book and trade with regular interest from $0.15 to $0.20 per contract is reasonable because Members will continue to be incentivized to send Priority Customer Complex Order flow to the Exchange despite the increased reduction in order to receive the tiered rebates. Also, the Exchange will continue to pay rebates for Priority Customer Complex Orders of any size that trade with Non-Priority Customer orders in the Complex Order Book, based on the Priority Customer Complex Tier achieved, thereby continuing to incentivize Members to bring Complex Order flow to the Exchange to earn the rebate on their Priority Customer Complex Order volume. Overall, the Exchange believes that the Priority Customer Complex Order rebate program, as modified under this proposal, is reasonable because the program is optional and all Members can choose to participate or not.

The Exchange believes that offering the Priority Customer Complex Order rebate program, as modified, to only Priority Customers is equitable and not unfairly discriminatory as the proposed changes are intended to increase Priority Customer Complex Order flow to ISE. An increase in Priority Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

Proposal 5—Complex Maker and Taker Fees in Non-Select Symbols

The Exchange believes that its proposal to increase the Complex Order maker and taker fees in Non-Select Symbols in the manner described above is reasonable because it is designed to offset the significant incentives that the Exchange is proposing for Priority Customer orders.[26] The Exchange believes that Members will benefit from the additional liquidity created by the Priority Customer incentives proposed in this filing, and it is therefore appropriate to charge all Non-Priority

[25] As previously discussed, the Exchange is proposing a significant increase in the base maker rebate provided to Priority Customer Regular Orders in Non-Select Symbols from $0.86 to $1.00 per contract. In addition, the Exchange is linking the Note 15 Incentive to the Section 4 Priority Customer Complex Tier rebates to further incentivize Priority Customer order flow to the Exchange. Finally, the Exchange is increasing the Section 4 Priority Customer Complex Tier rebates without changing the tier qualifications so that Members can send the same amount of order flow as they do today to receive larger rebates.

[26] *See supra* note 25.

Customers increased maker fees for trades executed against a Priority Customer and increased taker fees.

The Exchange also believes that its proposal is equitable and not unfairly discriminatory. As discussed above, the Exchange proposes to increase the maker fees in Non-Select Symbols when trading against Priority Customers as follows: $0.86 to $1.03 per contract for Market Makers and $0.88 to $1.05 per contract for all other Non-Priority Customers. Further, the Exchange proposes to increase the taker fees in Non-Select Symbols from $0.98 to $1.15 per contract for all Non-Priority Customers. Priority Customers will continue to receive free executions for their Complex Orders. Market Makers will continue to be assessed lower maker fees in Non-Select Symbols than other Non-Priority Customers when trading against Priority Customers. The Exchange believes this is equitable and not unfairly discriminatory because Market Makers are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to continue to offer Priority Customers Complex Orders free executions in order to incentivize Priority Customer order flow to ISE. Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

Proposal 6—Routing Fees

The Exchange's proposal to amend its routing fees such that all Members would pay a $0.60 per contract Select Symbol routing fee and a $1.20 Non-Select Symbol routing fee to route to another options exchange, regardless of capacity, is reasonable because the proposed routing fees would enable the Exchange to recover the costs it incurs to route orders to away markets after taking into account the other costs associated with routing orders to other options exchanges. Routing services offered by the Exchange are completely optional and market participants can readily select between various providers of routing services, including other exchanges and broker-dealers. Also, the Exchange notes that market participants may elect to mark their orders as ''Do-Not-Route'' to avoid any routing fees. As noted above, the proposed structure for routing fee is similar to another options market.[27]

The Exchange's proposal to amend its routing fees such that all Members would pay a $0.60 per contract Select Symbol Routing Fee and a $1.20 Non-Select Symbol Routing Fee, regardless of capacity, to route to another options exchange is equitable and not unfairly discriminatory because these uniform Routing Fees will apply equally to all options Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

In terms of intra-market competition, the Exchange does not believe that its proposal will place any category of market participant at a competitive disadvantage. While some aspects of the proposal apply directly to Priority Customers (through rebates or more favorable pricing) and Market Makers (through lower Complex Order maker fees when trading against Priority Customers) as discussed above, the Exchange believes that the changes, taken together, will ultimately fortify and encourage activity on the Exchange. As discussed above, all market participants will benefit from any increase in market activity that the proposal effectuates.

Proposal 1—Regular Priority Customer Maker Rebates in Non-Select Symbols

The Exchange does not believe that its proposal to increase the Regular Order Priority Customer maker rebate in Non-Select Symbols from $0.86 to $1.00 per contract will impose an undue burden on intra-market competition all Priority Customers will be uniformly assessed the $1.00 maker rebate. The Exchange does not believe that its proposal to provide only Priority Customers with this maker rebate will impose an undue burden on intra-market competition because the Exchange has historically offered more favorable pricing for those market participants. In addition, increased Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may trade with this order flow.

Proposal 2—Note 15 Incentive

The Exchange does not believe that the proposed changes to the Note 15 Incentive as discussed above will impose an undue burden on intra-market competition as the proposal will apply uniformly to all Priority Customers. While the proposed Note 15 incentive will only apply to Priority Customers, Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposal 3—Regular Taker Fees in Non-Select Symbols

The Exchange does not believe that its proposal to increase the taker fees in note 3 of Options 7, Section 3 for trades that are executed against Priority Customers will impose an undue burden on intra-market competition because the changes will apply uniformly to all similarly situated market participants. Priority Customers will continue to be charged a lower taker fee pursuant to note 3 compared to other market participants, which the Exchange believes is equitable and not unfairly discriminatory because the Exchange has historically provided Priority Customers with more favorable pricing. Furthermore, Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposal 4—Complex Priority Customer Rebates

The Exchange does not believe that offering the Priority Customer Complex Order rebate program, as modified under this proposal, to only Priority Customers will impose an undue burden on intra-market competition because the proposed changes are intended to increase Priority Customer Complex Order flow to ISE. An increase in Priority Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

[27] *See supra* note 20.

Proposal 5—Complex Maker and Taker Fees in Non-Select Symbols

The Exchange does not believe that its proposal to increase the Complex Order maker and taker fees in Non-Select Symbols in the manner described above will impose an undue burden on intra-market competition. As discussed above, the Exchange proposes to increase the maker fees in Non-Select Symbols when trading against Priority Customers as follows: $0.86 to $1.03 per contract for Market Makers and $0.88 to $1.05 per contract for all other Non-Priority Customers. Further, the Exchange proposes to increase the taker fees in Non-Select Symbols from $0.98 to $1.15 per contract for all Non-Priority Customers. Priority Customers will continue to receive free executions for their Complex Orders. Market Makers will continue to be assessed lower maker fees in Non-Select Symbols than other Non-Priority Customers when trading against Priority Customers. The Exchange believes this is equitable and not unfairly discriminatory because Market Makers are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to continue to offer Priority Customers Complex Orders free executions in order to incentivize Priority Customer order flow to ISE. Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants that may interact with this order flow.

Proposal 6—Routing Fees

The Exchange's proposal to amend its routing fees such that all Members would pay a $0.60 per contract Select Symbol routing fee and a $1.20 Non-Select Symbol routing fee to route to another options exchange, regardless of capacity, will not impose an undue burden on intra-market competition because these uniform routing fees will apply equally to all options Members.

Inter-Market Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[28] and Rule 19b–4(f)(2)[29] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–ISE–2023–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–ISE–2023–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ISE–2023–28 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26499 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[28] 15 U.S.C. 78s(b)(3)(A)(ii).

[29] 17 CFR 240.19b–4(f)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99031; File No. SR–NYSEARCA–2023–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To List and Trade Shares of the Hashdex Bitcoin Futures ETF Under NYSE Arca Rule 8.500–E (Trust Units)

November 28, 2023.

On September 22, 2023, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the Hashdex Bitcoin Futures ETF (''Fund'') under NYSE Arca Rule 8.500–E (Trust Units). The proposed rule change was published for comment in the **Federal Register** on October 3, 2023.[3]

On November 15, 2023, pursuant to section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Summary of the Proposal

As described in more detail in the Notice,[7] the Exchange proposes to list and trade the Shares of the Fund, a series of the Tidal Commodities Trust I (''Trust''), under NYSE Arca Rule 8.500–E, which governs the listing and trading of Trust Units on the Exchange.[8]

The investment objective of the Fund is to have the daily changes in the net asset value (''NAV'') of the Shares reflect the daily changes in the price of a specified benchmark (''Benchmark'').[9] The Benchmark will be calculated using the Nasdaq Bitcoin Reference Price—Settlement (''NQBTCS''), which tracks the price of bitcoin.[10] The Fund will seek to achieve its investment objective by investing in bitcoin futures contracts [11] as well as in physical bitcoin to the extent allowed by the Fund's investment restrictions on spot bitcoin.[12] The Fund will use the CME's Exchange for Physical (''EFP'') transactions to acquire and dispose of spot bitcoin.[13] The Fund will be subject to investment restrictions on spot bitcoin which are currently set at 100% of the 30-day Average Daily Traded Volume on the core bitcoin platforms of the NQBTCS that are subject to regulatory and reporting rules in the United States, including companies that are publicly traded in the United States.[14] The administrator of the Fund will calculate the NAV of the Fund once each trading day, as of the earlier of the close of the New York Stock Exchange or 4:00 p.m. Eastern Standard Time.[15] To determine the value of bitcoin futures contracts, the Fund's administrator will use the bitcoin futures contract settlement price on the exchange on which the contract is traded, except that the fair value of bitcoin futures contracts may be used when bitcoin futures contracts close at their price fluctuation limit for the day. The value of spot bitcoin held by the Fund would be determined by the Sponsor and by Hashdex Asset Management Ltd. (''Digital Asset Adviser'') in good faith based on a methodology that is entirely derived from the settlement prices of bitcoin futures contracts on the CME and that considers all available facts and all available information on the valuation date.[16] When the Fund sells or redeems its Shares, it will do so in cash transactions with authorized participants in blocks of 12,500 Shares.[17]

II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEARCA–2023–58 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to section 19(b)(2)(B) of the Act [18] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98564 (Sept. 27, 2023), 88 FR 68188 (''Notice''). Comments on the proposed rule change are available at: *https://www.sec.gov/comments/sr-nysearca-2023-58/srnysearca202358.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98947, 88 FR 81171 (Nov. 21, 2023). The Commission designated January 1, 2024, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3.

[8] The Exchange states that the Commission previously approved the listing and trading of the Shares pursuant to NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts on the Exchange, as shares of the Teucrium Bitcoin Futures Fund. *See* Securities Exchange Act Release No. 34–94620 (Apr. 6, 2022), 87 FR 21676 (Apr. 12, 2022) (SR–NYSEArca–2021–53) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of the Teucrium Bitcoin Futures Fund) (the ''Approval Order''). *See also* Securities Exchange Act Release No. 92573 (Aug. 5, 2021), 86 FR 44062 (Aug. 11, 2021) (SR–NYSEArca–2021–53) (Notice of Filing of a Proposed Rule Change To List and Trade Shares of Teucrium Bitcoin Futures Fund Under NYSE Arca Rule 8.200–E) and Partial Amendment No. 2, available at *https://www.sec.gov/comments/sr-nysearca-2021-53/srnysearca202153-20118884-271701.pdf.* According to the Exchange, the name of the Teucrium Bitcoin Futures Fund was subsequently changed to the Hashdex Bitcoin Futures ETF. *See* Notice, 88 FR at 68188. The Exchange states that the representations set forth in the Notice supersede and replace the representations in the Exchange's prior rule filing relating to the Teucrium Bitcoin Futures Fund and Partial Amendment No. 2 thereto. *See id.* at 68188 n.4.

[9] *See* Notice, 88 FR at 68189. The Fund is managed and controlled by Toroso Investments LLC (''Sponsor''). *See id.* at 68188.

[10] *See id.* at 68189.

[11] It is unclear from the filing whether the Fund is limited to investing in bitcoin futures contracts traded on the Chicago Mercantile Exchange, Inc. (''CME'').

[12] *See id.* at 68190. The Fund will hold a mix of spot bitcoin, bitcoin futures contracts, and cash and cash equivalents, subject to certain investment restrictions. *See id.* at 68197.

[13] *See id.* at 68197. According to the Exchange, EFP transactions are a type of private agreement between two parties to trade a futures position for the underlying asset. In an EFP transaction, two parties exchange equivalent but offsetting positions in a bitcoin futures contract and the underlying physical bitcoin. In the context of the Fund, these transactions will be used to purchase and sell spot bitcoin by delivering or receiving the equivalent futures position. *See id.* at 68204.

[14] *See id.* at 68203. According to the Exchange, as of the date of the filing, Coinbase Inc. was the only bitcoin platform to satisfy this criterion. *See id.* at 68203 n.78.

[15] *See id.* at 68206. The Fund's NAV will include any unrealized profit or loss on open bitcoin futures contacts and any other credit or debit accruing to the Fund but unpaid or not received by the Fund. *See id.*

[16] *See id.* at 68199. This ''futures-based spot price'' methodology is sensitive to both the tenor of a bitcoin futures contract and the final settlement price for such contract. The calculation produces a set of weighting factors, with each factor indicating the contribution of the corresponding bitcoin futures contract to the estimated current spot price of bitcoin. The estimated spot price is the component of the result corresponding to a tenor of zero days. The Sponsor and Digital Asset Advisor will not use data from bitcoin trading platforms or directly from spot bitcoin trading activity in determining the value of spot bitcoin held by the Fund. *See id.* at 68206.

[17] *See id.* at 68204, 68206.

[18] 15 U.S.C. 78s(b)(2)(B).

Pursuant to section 19(b)(2)(B) of the Act,[19] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [20]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views:

1. What are commenters' views on whether the proposed Fund and Shares would be susceptible to manipulation? What are commenters' views generally on whether the Exchange's proposal is designed to prevent fraudulent and manipulative acts and practices? What are commenters' views generally with respect to the liquidity and transparency of the bitcoin markets and the bitcoin markets' susceptibility to manipulation?

2. Based on data and analysis provided and the academic research cited by the Exchange,[21] what are commenters views on whether the CME, on which CME bitcoin futures trade and through which the Fund intends to engage in EFP transactions to purchase or sell spot bitcoin, represents a regulated market of significant size related to spot bitcoin? [22] What are commenters' views on whether there is a reasonable likelihood that a person attempting to manipulate the Shares would also have to trade on the CME to manipulate the Shares? [23] Do commenters agree with the Exchange that trading in the Shares would not be the predominant influence on prices in the CME bitcoin futures market? [24]

3. The Exchange states that the Fund intends to adopt ''an innovative approach to mitigate the risks of fraud and manipulation that are unique to the Fund'' by ''structur[ing] the operation of the Fund such that the regulated market of significant size in relation to the Fund is the [CME] because it is the same market on which the Fund trades its non-cash assets.'' [25] The Exchange further states that the Fund has novel features that underscore its significant interrelationship with the CME, including that the Fund (i) utilizes futures-based pricing for spot bitcoin such that the NAV calculation for the spot bitcoin holdings of the Fund will be derived from the CME bitcoin futures curve; (ii) is subject to investment restrictions on spot bitcoin; (iii) will use CME EFP transactions to acquire and dispose of spot bitcoin ''instead of transactions on unregulated spot exchanges''; and (iv) will utilize only cash creations and redemptions.[26] Based on the structure and operation of the Fund and the Fund's investments as described in the filing, what are commenters' views on whether the CME represents a regulated market of significant size related to spot bitcoin? [27]

4. The Fund will only use CME EFP transactions to acquire and dispose of spot bitcoin.[28] The Exchange states that ''trading activity in EFP transactions is sporadic'' but that, ''[n]onetheless, the Sponsor believes that a large number of liquidity providers are ready to execute this type of transaction and can provide enough liquidity to support the [Fund's] demand.'' [29] Do commenters agree? Why or why not?

5. The value of spot bitcoin held by the Fund would be determined using a futures-based spot price methodology that is derived from the settlement prices of bitcoin futures contracts on the CME.[30] The Exchange presents data [31] that it states ''strongly suggests that [futures-based spot pricing] is a suitable choice for the NAV calculation.'' [32] The Exchange states that futures-based spot pricing ''could create some level of uncertainty due to the potential divergences between the [futures-based spot price] and the spot prices observed in unregulated markets'' but that authorized participants ''will always be in a position to hedge their exposure using exclusively the [CME bitcoin futures market], which will make them more likely to provide liquidity to the Fund thus making its market price converge to its NAV.'' [33] Do commenters agree with the Exchange? Why or why not?

6. Some sponsors of proposed spot bitcoin exchange-traded products have provided data regarding the correlation between certain bitcoin spot markets and the CME bitcoin futures market.[34] What are commenters' views on the correlation between the bitcoin spot market and the CME bitcoin futures market? What are commenters' views on the extent to which that correlation provides evidence that the CME bitcoin futures market is ''significant'' related to spot bitcoin? What are commenters' views on the Sponsor's own statistical analysis of the relationship between prices in certain unregulated bitcoin markets and prices of CME bitcoin futures contracts? [35]

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with section 6(b)(5) or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[36]

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] *See* Notice, 88 FR at 68198–99, 68201 n.74, 68202–03.

[22] *See id.* at 68197.

[23] *See id.*

[24] *See id.*

[25] *See id.* at 68196.

[26] *See id.* at 68197.

[27] *See id.* at 68197.

[28] *See, e.g., id.* at 68204–06.

[29] *See id.* at 68205.

[30] *See id.* at 68199.

[31] *See id.* at 68199–201.

[32] *See id.* at 68201.

[33] *See id.* at 68201.

[34] *See, e.g.,* Notice of Filing of Amendment No. 3 to, and Order Instituting Proceedings to Determine Whether to Approve or Disapprove, a Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 98112 (Aug. 11, 2023), 88 FR 55743 (Aug. 16, 2023) (including data from sponsor 21Shares US LLC that purports to show correlations of returns across the two-year period from January 20, 2021, to February 1, 2023, of no less than 92% among certain spot bitcoin platforms and between the CME bitcoin futures market and such spot bitcoin platforms on an hourly basis, and no less than 78% on a minutely basis).

[35] *See id.* at 68202.

[36] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by December 22, 2023. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 5, 2024.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2023–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2023–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2023–58 and should be submitted on or before December 22, 2023. Rebuttal comments should be submitted by January 5, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26500 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99026; File No. SR–CboeEDGX–2023–070]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

November 28, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 15, 2023, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update its Fee Schedule to provide a 20% discount on fees assessed to Exchange Members and non-Members that purchase $20,000 or more of historical Open-Close Data, effective November 15, 2023 through December 31, 2023.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close

[37] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

Data is proprietary Exchange trade data and does not include trade data from any other exchange. All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file, *e.g.,* request for Intraday Open-Close Data for month of June 2023 or End-of-Day Open-Close Data for month of June 2023). An ad-hoc request can be for any number of months for which the data is available.

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

The Exchange proposes to provide a temporary pricing incentive program in which Members or Non-Members that purchase historical Open-Close Data will receive a percentage fee discount where specific purchase thresholds are met. Specifically, the Exchange proposes to provide a 20% discount for ad-hoc purchases of historical Open-Close Data of $20,000 or more.[5] The proposed program will apply to all market participants irrespective of whether the market participant is a new or current purchaser; however, the discount cannot be combined with any other discounts offered by the Exchange, including the academic discount provided for Qualifying Academic Purchasers of historical Open-Close Data. The Exchange intends to introduce the discount program beginning November 15, 2023, with the program remaining in effect through December 31, 2023.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, purchasers of the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that purchasers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 15% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of historical Open-Close Data.

The Exchange believes that the proposed incentive program for any Member or non-Member who purchases historical Open-Close Data is reasonable because such purchasers would receive a 20% discount for purchasing $20,000 or more worth of historical Open-Close Data. The Exchange believes the proposed discount is reasonable as it will give purchasers the ability to use and test the historical Open-Close Data at a discounted rate, prior to purchasing

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Profile, GEMX Trade Profile data; open-close data from Cboe Options, C2, and BZX; Open Close Reports from MIAX Options, Pearl, and Emerald; and NYSE Options Open-Close Volume Summary.

[5] The discount will apply on an order-by-order basis. To qualify for the discount, an order must contain End-of-Day Ad-hoc Requests (historical data) and/or Intraday Ad-hoc Requests (historical data) and must total $20,000 or more; the Exchange will not aggregate purchases made throughout a billing cycle for purposes of the incentive program. The discount will apply to the total purchase price, once the $20,000 minimum purchase is satisfied (for example, a qualifying order of $25,000 would be discounted to $20,000, *i.e.* receive a 20% discount of $5,000).

[6] As part of the proposed rule change, the Exchange also proposes to delete obsolete language related to a free trial that was offered for the months of September through December 2022 for up to 3 months of Intraday Open-Close Historical Data, as the offering is no longer in effect.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (November 8, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

additional months or a monthly subscription, and will therefore encourage and promote users to purchase the historical Open-Close Data. Further, the proposed discount is intended to promote increased use of the Exchange's historical Open-Close Data by defraying some of the costs a purchaser would ordinarily have to expend before using the data product. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who purchase historical Open-Close Data. Lastly, the purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Data, and the Exchange is not required to make the historical Open-Close Data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close Data. Moreover, purchase of Open-Close Data is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intermarket competition, as the proposed incentive program applies uniformly to any purchaser of historical Open-Close Data.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeEDGX–2023–070 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBoeEDGX–2023–070. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeEDGX–2023–070 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26494 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–213, OMB Control No. 3235–0220]

Proposed Collection; Comment Request; Extension: Rule 30b2–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 30b2–1 (17 CFR 270.30b2–1) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the

''Investment Company Act'') requires a registered management investment company (''fund'') to (1) file a report with the Commission on Form N–CSR (17 CFR 249.331 and 274.128) not later than 10 days after the transmission of any report required to be transmitted to shareholders under rule 30e–1 under the Investment Company Act, and (2) file with the Commission a copy of every periodic or interim report or similar communication containing financial statements that is transmitted by or on behalf of such fund to any class of such fund's security holders and that is not required to be filed with the Commission under (1) above, not later than 10 days after the transmission to security holders. The purpose of the collection of information required by rule 30b2–1 is to meet the disclosure requirements of the Investment Company Act and certification requirements of the Sarbanes-Oxley Act of 2002 (Pub. L. 107–204, 116 Stat. 745 (2002)), and to provide investors with information necessary to evaluate an interest in the fund.

The Commission estimates that there are 2,728 funds, with a total of 13,449 portfolios, that are governed by the rule. For purposes of this analysis, the burden associated with the requirements of rule 30b2–1 has been included in the collection of information requirements of rule 30e–1 (17 CFR 270.30e–1) and Form N–CSR, rather than the rule. The rule 30b2–1 information collection, however, imposes a one hour burden for administrative purposes and we are maintaining that one hour burden.

The collection of information under rule 30b2–1 is mandatory. The information provided under rule 30b2–1 is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by January 30, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: November 27, 2023.

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26403 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99023; File No. 4–698]

Order Granting an Exemption Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rule 608(e) of Regulation NMS Under the Exchange Act, Relating to the Recordkeeping Requirements for Industry Test Data, as Required by Rule 17a–1 Under the Exchange Act and Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail

November 27, 2023.

I. Introduction

By letter dated June 2, 2023, BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, NASDAQ BX, LLC, Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc., (collectively, the ''Participants'') requested that the Securities and Exchange Commission (''Commission'') grant exemptive relief to the Participants,[1] pursuant to its authority under section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 608(e) of Regulation NMS [3] under the Exchange Act, from certain recordkeeping requirements for retaining data from industry testing, in Rule 17a–1 [4] of the Exchange Act and certain provisions of the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'').[5]

Section 36(a)(1) of the Exchange Act grants the Commission the authority, with certain limitations, to ''conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.'' [6] Under Rule 608(e) of Regulation NMS, the Commission may ''exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.'' [7]

For the reasons set forth below, the Commission believes that it is consistent with the purposes of the Exchange Act to grant exemptive relief relating to the Participants' record-keeping and data retention requirements in Rule 17a–1 of the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and certain provisions in Appendix C of the CAT NMS Plan (to the extent any may apply).

II. Background and Request for Relief

In the Exemption Request, the Participants state that CAT Reporters, including both Participants and Industry Members, engage in testing related to the reporting of order and transaction data to the CAT, both pursuant to required testing and testing on a voluntary basis.[8] The Participants explain that in connection with this testing, CAT LLC, through the Plan

[1] *See* letter from the Participants to Vanessa Countryman, Secretary, Commission, dated June 2, 2023 (the ''Exemption Request''). Unless otherwise noted, capitalized terms are used as defined in the CAT NMS Plan.

[2] 15 U.S.C. 78mm(a)(1).

[3] 17 CFR 242.608(e).

[4] 17 CFR 240.17a–1.

[5] The CAT NMS Plan was approved by the Commission, as modified, on Nov. 15, 2016. *See* Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''CAT NMS Plan Approval Order'').

[6] 15 U.S.C. 78mm(a)(1).

[7] 17 CFR 242.608(e).

[8] *See* Exemptive Request, at 2.

Processor, retains the test data submitted by Industry Members and Participants, feedback files related to such data, and output files that hold the detailed transactions (such test data and files are referred to herein as ''Industry Test Data'').[9] The Participants further state that this exemption request only involves Industry Test Data related to the CAT order and transaction system, not the customer account and information system.[10] The Participants request that the Commission grant exemptive relief from the longer data retention time periods set forth in Rule 17a–1 of the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and certain provisions in Appendix C of the CAT NMS Plan, only as those retention requirements pertain to Industry Test Data.[11] The Participants request that in granting this relief, the Commission will only require the Participants, acting through CAT LLC and the Plan Processor, to retain Industry Test Data for a period of three months.[12]

In support of their request, the Participants state that Appendix D of the CAT NMS Plan specifically requires the retention of Industry Test Data for only three months,[13] and that this specific provision governs the retention period for Industry Test Data, in spite of the lengthier general recordkeeping provisions in the CAT NMS Plan and the even more general recordkeeping requirements of Rule 17a–1 under the Exchange Act.[14] The Participants state that Section 9.1 of the CAT NMS Plan incorporates by reference Rule 17a–1 under the Exchange Act, which requires every national securities exchange and national securities association ''to keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it in the course of its business as such and in the conduct of its self-regulatory activity,'' and to keep all such documents ''for a period of not less than five years, the first two years in an easily accessible place, subject to the destruction and disposition provisions of Rule 17a–6.'' [15] The Participants also state that they do not believe that Industry Test Data constitutes documents covered by Rule 17a–1 under the Exchange Act because to conclude as much would mean that the specific provision in Appendix D of the Plan calling for a three month retention of Industry Test Data would not have any application and would be rendered meaningless.[16] The Participants further state that Section 1.4 of Appendix D, along with certain sections of Appendix C, of the CAT NMS Plan requires that the CAT have a record retention policy that makes ''data directly available and searchable electronically without manual intervention for at least six years.'' [17] The Participants argue that this six-year requirement only applies to CAT data in the production environment of the Central Repository, and not to Industry Test Data, which has a specific provision calling for the data to be retained for three months only.[18]

The Participants state that retaining Industry Test Data for only three months would achieve approximately $1 million per year in savings.[19] In support of this claim, the Participants note that the Plan Processor has been accumulating and retaining Industry Test Data for years, and thus the current size of the Industry Test Data is approximately 20 petabytes, growing at an average rate of 500 terabytes per month.[20] The Participants state that if the Plan Processor were to remove Industry Test Data older than three months on a rolling monthly basis, then it estimates that the CAT would reach a steady state of retaining approximately two petabytes of Industry Test Data per year.[21]

The Participants further state that the costs of retaining the Industry Test Data far outweigh any benefits and that there is little to no regulatory value in retaining the data,[22] and that the primary purpose for retaining Industry Test Data for three months is to allow CAT Reporters access to the data to facilitate their own testing needs.[23] While the Participants have used the Industry Test Data for user acceptance testing related to past CAT releases, to date, the Participants state that there has been limited use of the Industry Test Data that adds regulatory value.[24] The Participants state that on many days, there are no active queries related to Industry Test Data, and when there have been limited queries performed in the industry test environment, these queries generally were concentrated around Participant user acceptance test periods for releases.[25] The Participants state that going forward, such Participant user acceptance testing would be limited as the CAT functionality is in the maintenance, not development, phase.[26] The Participants further state that the substantial price tag of $1 million per year to retain the Industry Test Data beyond three months is not warranted by this limited incidental regulatory use, as the retention of Industry Test Data beyond three months provides little or no regulatory benefit.[27] The Participants also believe that the Commission's prior approval of the CAT NMS Plan with the specific requirement to retain such data for three months supports their conclusion that the retention of Industry Test Data beyond three months is not warranted.[28]

III. Discussion of Participants' Exemption Request

The Commission has carefully considered the Participants' exemption request. The Commission believes, for the reasons stated below, that granting exemptive relief from the recordkeeping and data retention time periods set forth in Rule 17a–1 of the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and certain provisions in Appendix C of the CAT NMS Plan (to the extent any may apply), for Industry Test Data, is, pursuant to section 36(a)(1) of the Exchange Act, appropriate in the public interest and consistent with the protection of investors, and that pursuant to Rule 608(e), this exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of a national market system.

In their exemption request, the Participants state that they retain

[9] *Id.*

[10] *Id.* at note 6.

[11] *Id.* at 4.

[12] *Id.* at 1.

[13] *Id.* at 2.

[14] *See* Exemptive Request, at 3.

[15] *Id.* at 2–3.

[16] *Id.*

[17] *Id.,* at 3 (referencing Appendix C of the CAT NMS Plan at C–13, C–29, C–129).

[18] *Id.* The Participants reiterate their belief that the more specific three month requirement should apply by referring to a statement in Appendix C that ''[t]he Central Repository will retain data, including the Raw Data, linked data, and corrected data, for at least six years,'' to support this view. *See id.* (referencing Appendix C of the CAT NMS Plan at C–29 (''All of the data (including both corrected and uncorrected or rejected data) in the Central Repository must be kept online for a rolling six year period, which would create a six year historical audit trail.''); Appendix C of the CAT NMS Plan at C–129 (''The Participants are requiring data for six years to be kept online in an easily accessible format to enable regulators to have access to six years of audit trail materials for purposes of its regulation.'')).

[19] *Id.* at 3–4.

[20] *Id.* at 3.

[21] *Id.*

[22] *Id.* at 4.

[23] *Id.*

[24] *See* Exemptive Request, at 4.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

Industry Test Data through CAT LLC and the Plan Processor, and will continue to retain such data for three months pursuant to the requirement in Section 1.2 of Appendix D of the CAT NMS Plan.[29] The Commission believes that the regulatory value does not justify the approximately $1 million per year cost for retaining Industry Test Data beyond three months. As the Participants note, the primary purpose of Industry Test Data is to facilitate CAT Reporter testing needs. Indeed, the Participants stated that over the past fifteen months, queries of Industry Test Data generally were concentrated around Participant user acceptance test periods for releases.[30] Additionally, Section 1.2 of the CAT NMS Plan requires the operational metrics associated with industry testing to be retained for six years.[31]

Based on the foregoing, pursuant to section 36(a)(1) of the Exchange Act, it is appropriate in the public interest and consistent with the protection of investors, and pursuant to Rule 608(e), it is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and the perfection of a national market system to grant exemptive relief that exempts each Participant from the longer recordkeeping and data retention requirements for Industry Test Data as set forth in Rule 17a–1 under the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and Appendix C of the CAT NMS Plan (to the extent any may apply).

IV. Conclusion

The Commission believes it is appropriate to grant exemptive relief that exempts each Participant from the longer recordkeeping and data retention requirements for Industry Test Data as set forth in Rule 17a–1 under the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and Appendix C of the CAT NMS Plan (to the extent any may apply).

[29] *Id.* at 4.

[30] *Id.* at 4. The Participants state that there have been 406 queries in the industry test environment, which is an average of 27 queries per month during this 15-month period. *Id.*

[31] *Id.* at 2. Specifically, Section 1.2 of Appendix D of the CAT NMS Plan requires that ''[o]perational metrics associated with industry testing (including but not limited to testing results, firms who participated, and amount of data reported and linked) must be stored for the same duration as the CAT production data.'' *Id.* Industry Test Data does not include such operational metrics associated with industry testing, and operational metrics will continue to be retained for six years.

Accordingly, *it is hereby ordered*, pursuant to section 36(a)(1) of the Exchange Act,[32] and Rule 608(e) of the Exchange Act [33] that the Participants are granted an exemption from the longer recordkeeping and data retention requirements for Industry Test Data as set forth in Rule 17a–1 under the Exchange Act, Section 9.1 of the CAT NMS Plan, Section 1.4 of Appendix D of the CAT NMS Plan and Appendix C of the CAT NMS Plan (to the extent any may apply).

By the Commission.

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26407 Filed 11–30–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99027; File No. SR–CboeBZX–2023–094]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

November 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 15, 2023, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[32] 15 U.S.C. 78mm(a)(1).

[33] 17 CFR 242.608(e).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update its Fee Schedule to provide a 20% discount on fees assessed to BZX Members and non-Members that purchase $20,000 or more of historical Open-Close Data, effective November 15, 2023 through December 31, 2023.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The EOD Open-Close Data is proprietary BZX trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of EOD Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is proprietary BZX trade data and does not include trade data from any other exchange. All Open-Close Data products are completely voluntary products, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file, *e.g.,* request for Intraday Open-Close Data for month of June 2023 or End-of-Day Open-Close Data for month of June 2023). An ad-hoc request can be for any number of months for which the data is available.

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

The Exchange proposes to provide a temporary pricing incentive program in which Members or Non-Members that purchase historical Open-Close Data will receive a percentage fee discount where specific purchase thresholds are met. Specifically, the Exchange proposes to provide a 20% discount for ad-hoc purchases of historical Open-Close Data of $20,000 or more.[5] The proposed program will apply to all market participants irrespective of whether the market participant is a new or current purchaser; however, the discount cannot be combined with any other discounts offered by the Exchange, including the academic discount provided for Qualifying Academic Purchasers of historical Open-Close Data. The Exchange intends to introduce the discount program beginning November 15, 2023, with the program remaining in effect through December 31, 2023.[6]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee changes will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, purchasers of the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that purchasers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 17 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 15% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Profile, GEMX Trade Profile data; open-close data from Cboe Options, C2, and BYX; Open Close Reports from MIAX Options, Pearl, and Emerald; and NYSE Options Open-Close Volume Summary.

[5] The discount will apply on an order-by-order basis. To qualify for the discount, an order must contain End-of-Day Ad-hoc Requests (historical data) and/or Intraday Ad-hoc Requests (historical data) and must total $20,000 or more; the Exchange will not aggregate purchases made throughout a billing cycle for purposes of the incentive program. The discount will apply to the total purchase price, once the $20,000 minimum purchase is satisfied (for example, a qualifying order of $25,000 would be discounted to $20,000, *i.e.* receive a 20% discount of $5,000).

[6] As part of the proposed rule change, the Exchange also proposes to delete obsolete language related to a free trial that was offered for the months of September through December 2022 for up to 3 months of Intraday Open-Close Historical Data, as the offering is no longer in effect.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 2.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (November 8, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

purchasers of historical Open-Close Data.

The Exchange believes that the proposed incentive program for any Member or non-Member who purchases historical Open-Close Data is reasonable because such purchasers would receive a 20% discount for purchasing $20,000 or more worth of historical Open-Close Data. The Exchange believes the proposed discount is reasonable as it will give purchasers the ability to use and test the historical Open-Close Data at a discounted rate, prior to purchasing additional months or a monthly subscription, and will therefore encourage and promote users to purchase the historical Open-Close Data. Further, the proposed discount is intended to promote increased use of the Exchange's historical Open-Close Data by defraying some of the costs a purchaser would ordinarily have to expend before using the data product. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who purchase historical Open-Close Data. Lastly, the purchase of this data product is discretionary and not compulsory. Indeed, no market participant is required to purchase the historical Open-Close Data, and the Exchange is not required to make the historical Open-Close Data available to all investors. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close Data. Moreover, purchase of Open-Close Data is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule changes are grounded in the Exchange's efforts to compete more effectively. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Further, the Exchange believes that these changes will not cause any unnecessary or inappropriate burden on intermarket competition, as the proposed incentive program applies uniformly to any purchaser of historical Open-Close Data.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f) of Rule 19b–4 [14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2023–094 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2023–094. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2023–094 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26491 Filed 11–30–23; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99021; File No. SR–NYSEARCA–2023–80]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

November 27, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934

[1] 15 U.S.C. 78s(b)(1).

(''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 15, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding the Firm and Broker Dealer Monthly Fee Cap. The Exchange proposes to implement the fee change effective November 15, 2023.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Firm and Broker Dealer Monthly Fee Cap (the ''Monthly Fee Cap''). The Exchange proposes to implement the rule change on November 15, 2023.

The Exchange proposes to modify the Monthly Fee Cap, which currently provides that combined Firm proprietary fees and Broker Dealer fees for transactions in standard option contracts cleared in the customer range for Manual executions and QCC transactions are capped at $200,000 per month.[5]

The Exchange proposes to raise the Monthly Fee Cap to $250,000 per month. Accordingly, the Exchange proposes to modify the Fee Schedule to replace $200,000 with $250,000 in the description of the Monthly Fee Cap. Strategy executions, royalty fees, and firm trades executed via a Joint Back Office agreement will continue to be excluded from fees to which the Monthly Fee Cap would apply. Once a Firm or Broker Dealer has reached the Monthly Fee Cap, an incremental service fee of $0.01 per contract for Firm or Broker Dealer Manual transactions will continue to apply, except for the execution of a QCC order.

The Exchange also proposes non-substantive clarifying changes to the description of the Monthly Fee Cap to identify the fees included in the Monthly Fee Cap more precisely. The proposed changes are not intended to modify any fees eligible for the Monthly Fee Cap, but rather to improve the clarity of the Fee Schedule.

The Exchange believes that the proposed change, despite increasing the amount of the Monthly Fee Cap, would continue to incent Firms and Broker Dealers to direct order flow to the Exchange to receive the benefits of a fee cap on Manual and QCC transactions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [8]

There are currently 17 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[9] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in September 2023, the Exchange had less than 12% market share of executed volume of multiply-listed equity and ETF options trades.[10]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, modifications to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The proposed increase to the Monthly Fee Cap is reasonable because the Exchange believes the fee cap, although higher, would continue to incent Firms and Broker Dealers to direct order flow to the Exchange to receive the benefits of capped fees. The Exchange also believes the proposed change is reasonable because the proposed fee cap amount would be applicable to all Firms and Broker Dealers. In addition, although the proposed change would raise the amount of the Monthly Fee Cap, it would continue to offer Firms and Broker Dealers the opportunity to qualify for capped fees on Manual and QCC transactions, which the Exchange believes provides Firms and Broker

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on October 31, 2023 (SR–NYSEARCA–2023–75) and withdrew such filing on November 15, 2023.

[5] *See* Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, FIRM AND BROKER DEALER MONTHLY FEE CAP.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[9] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[10] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.,* the Exchange's market share in equity-based options increased from 10.84% for the month of September 2022 to 11.48% for the month of September 2023.

Dealers with a benefit not offered by at least one other options exchange.[11]

To the extent the proposed change continues to attract greater volume and liquidity, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors. The Exchange's fees are constrained by intermarket competition, as OTP Holders may direct their order flow to any of the 17 options exchanges. Thus, OTP Holders have a choice of where they direct their order flow, including their Manual and QCC transactions. The proposed rule change is designed to continue to incent OTP Holders to direct liquidity and, in particular, Firm and Broker Dealer transactions to the Exchange. In addition, to the extent OTP Holders are incentivized to aggregate their trading activity at the Exchange, that increased liquidity could promote market depth, price discovery and improvement, and enhanced order execution opportunities for market participants.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits because the proposal is based on the amount and type of business transacted on the Exchange. The Exchange believes that the proposed modification of the Monthly Fee Cap is equitable because it would apply to all Firms and Broker Dealers equally and would continue to provide for the same fee cap amount for all Firms and Broker Dealers. The Exchange also believes that the proposed rule change is equitable with respect to non-Firm and non-Broker Dealer market participants because the Monthly Fee Cap would not be meaningful for Customers or Professional Customers (neither of whom pay transaction charges for Manual transactions or QCC transactions) and because Market Makers are offered other incentives to reduce transaction fees.[12] To the extent the proposed change achieves its purpose in continuing to incent Firms and Broker Dealers to aggregate their executions at the Exchange as a primary execution venue and does not discourage Firms and Broker Dealers from continuing to direct order flow to the Exchange to achieve the benefits of capped fees, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution, and all market participants would benefit from enhanced opportunities for price improvement and order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange, thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed change to the Monthly Fee Cap is not unfairly discriminatory because the fee cap, as proposed, would continue to be available to all similarly situated Firms and Broker Dealers, any of which could continue to be incented to direct order flow to the Exchange to qualify for the fee cap. Moreover, the proposed change to the Monthly Fee Cap is not unfairly discriminatory because it would continue to apply the same fee cap amount to all Firms and Broker Dealers. The Exchange notes that offering the Monthly Fee Cap to Firms and Broker Dealers but not other market participants is not unfairly discriminatory because the Monthly Fee Cap would not be meaningful for Customers or Professional Customers because neither Customers nor Professional Customers pay transaction charges for Manual transactions or QCC transactions and is not unfairly discriminatory towards Market Makers, as Market Makers have alternative avenues to reduce transaction fees.[13]

To the extent that the proposed change continues to attract Manual and QCC transactions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange, thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [14]

Intramarket Competition. The proposed change is designed to continue to attract order flow to the Exchange, which could increase the volumes of contracts traded on the Exchange. Greater liquidity benefits all market participants on the Exchange, and the Exchange believes that the proposed change (even though it would raise the amount of the fee cap) would not impose any burden on competition that is not necessary or appropriate because it is intended to continue to incentivize Firms and Broker Dealers to direct order flow to the Exchange to be eligible for the benefits of capped fees on Manual and QCC transactions, thereby promoting liquidity on the Exchange to the benefit of all market participants.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 17 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its

[11] *See, e.g.,* BOX Options Fee Schedule, available at: *https://boxoptions.com/fee-schedule/* (no cap on Firm and Broker Dealer manual or QCC transaction fees).

[12] *See generally* Fee Schedule (various incentives available to Market Makers for posted monthly volume, including on executions in penny issues, non-penny issues, and SPY).

[13] *See id.*

[14] *See* Reg NMS Adopting Release, *supra* note 8, at 37499.

fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[15] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in September 2023, the Exchange had less than 12% market share of executed volume of multiply-listed equity and ETF options trades.[16]

The Exchange believes that the proposed change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to continue to incent OTP Holders to direct trading interest (particularly Firm and Broker Dealer Manual and QCC transactions) to the Exchange, to provide liquidity and to attract order flow. To the extent that Firms and Broker Dealers are incentivized to utilize the Exchange as a primary trading venue for all transactions, all the Exchange's market participants should benefit from the improved market quality and increased trading opportunities.

The Exchange further believes that the proposed change could promote competition between the Exchange and other execution venues, including those that do not offer a cap on Firm and Broker Dealer fees,[17] by encouraging additional orders to be sent to the Exchange for execution. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[15] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[16] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.,* the Exchange's market share in equity-based options increased from 10.84% for the month of September 2022 to 11.48% for the month of September 2023.

[17] *See* note 11, *supra.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [18] of the Act and subparagraph (f)(2) of Rule 19b–4 [19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2023–80 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2023–80. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2023–80 and should be submitted on or before December 22, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–26384 Filed 11–30–23; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12272]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: "Wolf Vostell: Dé-coll/age Is Your Life" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition ''Wolf Vostell: Dé-coll/age Is Your Life'' at the Harvard Art Museums, Cambridge, Massachusetts, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email:

section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–26418 Filed 11–30–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12275]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: ''Bethlehem Reborn: The Wonders of the Church of the Nativity'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition ''Bethlehem Reborn: The Wonders of the Church of the Nativity'' at the Museum of the Bible, Washington, District of Columbia, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–26419 Filed 11–30–23; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36739]

Massachusetts Coastal Railroad, LLC—Acquisition and Operation Exemption—Bay Colony Railroad Corporation

Massachusetts Coastal Railroad, LLC (Mass Coastal), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Bay Colony Railroad Corporation (Bay Colony) and to operate approximately 5.92 miles of rail line between milepost QND 0.08 and milepost QND 6.00 in Bristol County, Mass. (the Line). According to the verified notice, Bay Colony is the current operator of the Line.

The verified notice states that Mass Coastal has entered into an agreement with Bay Colony to acquire the assets comprising the Line and will assume, via assignment, the lease for the underlying real property, which is owned by Massachusetts Department of Transportation (MassDOT).[1] Mass Coastal currently has authority to operate the lines connected to both ends of the Line.

Mass Coastal certifies that the proposed acquisition of the Line does not involve any interchange commitments. Mass Coastal further certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III carrier and that its projected annual revenue will not exceed $5 million.

The transaction may be consummated on or after December 16, 2023, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 8, 2023.

All pleadings, referring to Docket No. FD 36739, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Mass Coastal's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to Mass Coastal, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: November 28, 2023.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2023–26453 Filed 11–30–23; 8:45 am]

BILLING CODE 4915–01–P

[1] Mass Coastal states that the Bay Colony lease was previously with the prior owner of the real property, CSX Transportation, Inc. *See Bay Colony R.R.—Acquis. & Operation Exemption—CSX Transp., as Operator for N.Y. Cent. Lines, LLC,* FD 34446 (STB served Jan. 16, 2004). Mass Coastal also states that the real property was acquired, and the lease assumed, by MassDOT in 2009. *See Mass. Dept. of Transp.—Acquis. Exemption—Certain Assets of CSX Transp.,* FD 35312 (STB served Dec. 10, 2009).

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Energy Resource Council (RERC) will hold a meeting on December 12, 2023, regarding regional energy related issues in the Tennessee Valley.

DATES: The meeting will be held virtually, on Tuesday, December 12, 2023, from 2 p.m. to 3:30 p.m. EST. To view the webinar, the public must visit *https://events.gcc.teams.microsoft.com/event/55132b7c-a2dc-45ed-ae3b-4bc87b3344d2@270992cd-9003-4971-84de-d1640c0bffc5* to register for the webinar. This link and instructions to view the meeting will be posted on TVA's RERC website at *www.tva.gov/rerc.*

ADDRESSES: The meeting will be fully virtual, and the meeting link is provided at *https://events.gcc.teams.microsoft.com/event/55132b7c-a2dc-45ed-ae3b-4bc87b3344d2@270992cd-9003-4971-84de-d1640c0bffc5.* Anyone needing special accommodations should let the contact below know at least one week in advance.

FOR FURTHER INFORMATION CONTACT: Bekim Haliti, *bhaliti@tva.gov* or 931–349–1894.

SUPPLEMENTARY INFORMATION: The RERC was established to advise TVA on its energy resource activities and the priorities among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. 10.

The meeting agenda includes the following:

December 12

1. Welcome and Introductions
2. IRP Process Update
3. IRP Scenarios and Strategies

Written comments are invited and may be emailed to *bhaliti@tva.gov.*

Dated: November 27, 2023.

Melanie Farrell,

Vice President, External Stakeholders and Regulatory Oversight, Tennessee Valley Authority.

[FR Doc. 2023–26452 Filed 11–30–23; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Decommissioning and Disposition of the National Historic Landmark Nuclear Ship Savannah; Notice of Site Visit

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) announces a site visit for the National Historic Landmark (NHL) Nuclear Ship Savannah (NSS). MARAD is decommissioning the nuclear power plant of the NSS, which will result in the termination of the ship's Nuclear Regulatory Commission (NRC) license, making the ship available for disposition, including potential conveyance or preservation. The site visit will provide interested parties an opportunity to learn more about the NSS to assist in determining if they may wish to consider acquiring the ship for preservation purposes, as prescribed in the recently executed Programmatic Agreement (PA) covering the decommissioning and disposition of the ship.

DATES: Site visits will be held on December 16 and 17, 2023, from 10:00 a.m. to 4:00 p.m. Eastern Standard Time. Requests to attend the site visit(s) must be received one week in advance, by December 9, 2023, to facilitate entry. Requests for accommodations for a disability must also be received one week in advance.

ADDRESSES: The site visit will be held onboard the NSS. The NSS is located at Pier 13 Canton Marine Terminal, 4601 Newgate Avenue, Baltimore, MD 21124.

FOR FURTHER INFORMATION CONTACT: Erhard W. Koehler, (202) 680–2066 or via email at *marad.history@dot.gov.* You may send mail to N.S. Savannah/Savannah Technical Staff, Pier 13 Canton Marine Terminal, 4601 Newgate Avenue, Baltimore, MD 21224, ATTN: Erhard Koehler.

SUPPLEMENTARY INFORMATION:

I. Background

The decommissioning and disposition of the NSS is an Undertaking under Section 106 of the National Preservation Act (NHPA) of 1966, as amended. Section 106 requires that federal agencies consider views of the public regarding their Undertakings; therefore, in 2020, MARAD established a Federal docket at *https://www.regulations.gov/docket/MARAD-2020-0133* to provide public notice about the NSS Undertaking. The federal docket was also used in 2021 to solicit public comments on the future uses of the NSS. MARAD is continuing to use this same docket to take in public comment, share information, and post agency actions.

The PA for the Decommissioning and Disposition of the NSS is available on the MARAD docket located at *www.regulations.gov* under docket id ''MARAD–2020–0133.'' The PA stipulates a deliberative process by which MARAD will consider the disposition of the NSS. This process requires MARAD to make an affirmative, good-faith effort to preserve the NSS. To that end, a Notice of Availability/Request for Information (NOA/RFI) was developed in accordance with Stipulation IV of the PA. The NOA/RFI was published in the **Federal Register** in October and an information session was held in November. The purpose of the NOA/RFI process is to determine preservation interest from entities that may wish to acquire the NSS.

II. Agenda

The agenda will include (1) welcome and introductions; (2) tour of the ship: and (3) questions. The agenda will also be posted on MARAD's website at *https://www.maritime.dot.gov/outreach/history/maritime-administration-history-program* and on the MARAD docket located at *www.regulations.gov* under docket id ''MARAD–2020–0133.''

III. Public Participation

The site visit(s) will be open to the public. Members of the public who wish to attend in person or online must RSVP to the person listed in the **FOR FURTHER INFORMATION CONTACT** section with your name and affiliation.

Special services. The NSS is not compliant with the Americans with Disabilities Act (ADA). The ship has some capability to accommodate persons with impaired mobility. If you require accommodations to attend the site visit, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The U.S. Department of Transportation is committed to providing all participants equal access to this meeting. If you need alternative formats or services such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

(Authority: 49 CFR 1.81 and 1.93; 36 CFR part 800; 5 U.S.C. 552b.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–26401 Filed 11–30–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to New Technologies in Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning new technologies in retirement plans.

DATES: Written comments should be received on or before January 30, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include OMB control number 1545–1632 or New Technologies in Retirement Plans.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: New Technologies in Retirement Plans.

OMB Number: 1545–1632.

Regulation Project Numbers: TD 8873, TD 9294, and REG–114666–22.

Abstract: Treasury Regulations section 1.402(f)–1 require that plan administrators and employers provide recipients of certain distributions from qualified retirement plans timely written explanations of certain provisions. This regulation provides that if a full written paper explanation was previously given, a written paper or electronic summary of the explanation may be provided to participants in lieu of the full explanation within the requisite time. Treasury Regulations section 1.411(a)–11 require employers or plan administrators of qualified retirement plans to provide certain notices to and obtain consents and elections from distributees. Treasury Regulations section 1.411(a)–11 requires that a confirmation of the terms of the distribution be provided to each participant who consents to a distribution through an electronic medium.

Current Actions: There are no changes to the regulation or burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 455,625.

Estimated Number of Responses: 11,700,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 477,563 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 20, 2023.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2023–26448 Filed 11–30–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Women Veterans will conduct a virtual meeting on December 12–13, 2023. The meeting will begin and ends as follows:

Date	Time	Location
December 12, 2023	1:00 p.m.–4:00 p.m. Eastern Standard Time (EST)	WEBEX link and call-in information below.
December 13, 2023	12:00 p.m.–3:00 p.m. (EST)	WEBEX link and call-in information below.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

On Tuesday, December 12, 2023, the agenda includes updates on National Cemetery Administrations and Veterans Benefits Administrations initiatives, the Intimate Partner Violence Assistance Program and Office of Women's Health initiatives.

On Wednesday, December 13, 2023, the agenda includes time allotted for public comment starting at 12:15 p.m. and ending no later than 12:45 p.m. (EST). The comment period may end sooner, if there are no comments presented or they are exhausted before the end time. Individuals interested in providing comments during the meeting are allowed no more than three minutes for their statements. Following the comment period, the committee will receive updates on the Women Veterans Call Center, Veteran homelessness, assault and harassment prevention and Office of Transition and Economic Development initiatives.

Those who want to submit written statements for the Committee's review should submit them to the Center for Women Veterans at *00W@mail.va.gov* no later than December 5, 2023. Any member of the public who wishes to participate virtually may use the following access information: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m9de28b6643510a4d459d06264ecd4057* meeting number: 2760 849 6758, password: mQarcAM*258. Join by phone at 14043971596 (USA toll number); Access code: 2760 849 6758.

Dated: November 28, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–26459 Filed 11–30–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 230 December 1, 2023

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Parts 1005, 1006, and 1007

Milk in the Appalachian, Florida, and Southeast Marketing Areas; Final Decision on Proposed Amendments to Marketing Agreements and to Orders; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1006, and 1007

[Doc. No. AMS–DA–23–0003; 23–J–0019]

Milk in the Appalachian, Florida, and Southeast Marketing Areas; Final Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; final decision.

SUMMARY: This proposed rule is the Secretary's final decision in this proceeding and recommends amendments to the transportation credit balancing fund provisions for the Appalachian and Southeast Federal milk marketing orders, and establishment of distributing plant delivery credits in the Appalachian, Florida, and Southeast Federal milk marketing orders. AMS will determine whether producers approve of the proposed amended orders, as required by regulation.

DATES: The representative period for ascertaining producer approval is March 2023.

ADDRESSES: To review the hearing record, please see *https://www.ams.usda.gov/rules-regulations/milk-appalachian-southeast-and-florida-areas-hearing-proposed-amendments*.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231-Room 2530, 1400 Independence Avenue SW, Washington, DC 20250–0231, (202) 720–7183, email address: *Erin.Taylor@usda.gov*.

SUPPLEMENTARY INFORMATION: This final decision recommends amendments to the transportation credit balancing fund (TCBF) provisions in the Appalachian and Southeast Federal milk marketing orders (FMMOs) that (1) update the components of the mileage rate calculation; (2) revise the months of mandatory and discretionary payment; (3) revise the non-reimbursed mileage factor; and (4) increase the maximum assessment rate on Class I milk. This final decision also recommends establishment of distributing plant delivery credit (DPDC) provisions in the Appalachian, Florida, and Southeast FMMOs that make marketwide service payments to qualifying handlers and cooperatives for milk shipments to pool distributing plants from farms that are year-round, consistent suppliers. AMS will determine if producers approve of the proposed amended orders, as required by regulation. If at least two-thirds of the producers or two-thirds of the milk represented in the vote approve of the amended orders, AMS will issue a final rule implementing the changes.

This administrative action is governed by sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Orders 12866, 13563, 14094, and 13175.

The amendments to the regulations as proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (AMAA), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the AMAA, any handler subject to an order may request modification or exemption from such order by filing a petition with the United States Department of Agriculture (USDA) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The AMAA provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review USDA's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. A small dairy farm as defined by the Small Business Administration (SBA) (13 CFR 121.201) is one that has an annual gross revenue of $3.75 million or less, and a small dairy products manufacturer is one that has no more than the number of employees listed in the chart below:

NAICS code	NAICS U.S. industry title	Size standards in number of employees
311511	Fluid Milk Manufacturing	1,150
311512	Creamery Butter Manufacturing	750
311513	Cheese Manufacturing	1,250
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	1,000

To determine which dairy farms are ''small businesses,'' the $3.75 million per year income limit was used to establish a milk marketing threshold of 1,220,703 pounds per month. Although this threshold does not factor in additional monies that may be received by dairy producers, it should be an accurate standard for most ''small'' dairy farmers. To determine a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 750-employee limit for creamery butter; the 1,000-employee limit for dry, condensed, and evaporated dairy product manufacturing; the 1,150-employee limit for fluid milk manufacturing; or the 1,250-employee limit for cheese manufacturing; the plant was considered a large business even if the local plant does not exceed the 750, 1,000, 1,150, or 1,250-employee limits, respectively.

During January 2023, the milk of 2,522 dairy farms was pooled on the Appalachian (1,578), Florida (113), and Southeast (831) FMMOs. Of the total, 1,491 farms on the Appalachian FMMO (94 percent), 69 on the Florida FMMO (61 percent), and 787 on the Southeast FMMO (95 percent) were considered small businesses.

During January 2023, there were a total of 17 plants associated with the Appalachian FMMO (16 fully regulated plants and 1 partially regulated plant), 7 plants associated with the Florida FMMO (all fully regulated), and 16 plants associated with the Southeast FMMO (15 fully regulated plants and 1 partially regulated plant). The number of plants meeting the small business criteria under the Appalachian, Florida, and Southeast FMMOs were estimated to be 2 (12 percent), 2 (29 percent), and 2 (13 percent), respectively.

Currently, the Appalachian and Southeast orders provide transportation credit balancing fund (TCBF) payments on supplemental shipments of milk for Class I use provided the milk was from producers located outside of the marketing areas who are not regular suppliers to the market. Producer milk received at a pool distributing plant eligible for a transportation credit under the orders is defined as bulk milk received directly from a dairy farmer (1) from whom not more than 50 percent of the dairy farmer's milk production, in aggregate, is received as producer milk during the immediately preceding months of March through May of each order; and (2) who produced milk on a farm not located within the specified marketing areas of either order. Milk deliveries from producers located outside the marketing area who are consistent suppliers to the market, or from producers located inside the marketing areas, are not eligible for transportation credits.

This decision continues to propose amendments to the Appalachian and Southeast TCBF provisions. Specifically, the proposed amendments would amend the non-reimbursed mileage level from 85 miles to 15 percent of total miles and update components of the mileage rate factor to reflect more current market transportation costs.

The proposed amendments also would increase the maximum TCBF assessment rates for the Appalachian and Southeast orders. Specifically, the maximum transportation credit assessment rate for the Appalachian and Southeast orders would increase to $0.30 and $0.60 per hundredweight (cwt), respectively. The increases are intended to minimize the proration and depletion of each Order's TCBF to provide more adequate TCBF payments. This decision finds these assessment levels necessary because of escalating transportation costs coupled with the continued decline in milk production in the southeastern region necessitating longer hauls to procure supplemental milk to meet the Class I needs of the region.

This decision also continues to propose adoption of DPDCs in the Appalachian, Florida, and Southeast FMMOs to provide transportation assistance to handlers and cooperatives procuring year-round, consistent milk supplies for the region. Currently, there are no provisions in any of the three southeastern FMMOs to provide transportation assistance to handlers and cooperatives for these types of milk deliveries.

The proposed DPDCs would operate similar to the TCBF program: (1) funded through an assessment on Class I producer milk; (2) payable to handlers and cooperatives for procuring year-round milk supplies as determined by location and delivery criteria; (3) payment provisions identical to TCBF payments; and (4) contain provisions designed to safeguard against excess assessment collections and prevent persistent and pervasive uneconomic milk movements for the purpose of receiving a DPDC payment.

The proposed TCBF and DPDC provisions would be applied identically to large and small handlers and cooperatives regulated by the Appalachian, Florida, and Southeast FMMOs. Since the proposed amendments would apply to all regulated cooperatives and handlers regardless of their size, the proposed amendments should not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these proposed amendments would have no impact on reporting, recordkeeping, or other compliance requirements because those requirements would remain unchanged. No new forms are proposed, and no additional reporting requirements would be necessary.

This final decision does not require additional information collection that requires clearance by the Office of Management and Budget beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, since the information is already provided, no new information collection requirements are needed, and the current information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

The Agricultural Marketing Service is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

No other burdens are expected to fall on the dairy industry as a result of overlapping Federal rules. This rulemaking proceeding does not duplicate, overlap, or conflict with any existing Federal rules.

Prior Documents in This Proceeding

Notice of Hearing: Published in the **Federal Register** on January 30, 2023 (88 FR 5800).

Recommended Decision: Published in the **Federal Register** on July 18, 2023 (88 FR 46016).

Secretary's Decision

Notice is hereby given of the filing with the Hearing Clerk of this final decision with respect to proposed amendments to the tentative marketing agreements and the orders regulating the handling of milk in the Appalachian, Florida, and Southeast marketing areas. This final decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

A public hearing was held upon proposed amendments to the marketing agreement and the orders regulating the handling of milk in the Appalachian, Florida, and Southeast marketing areas. The hearing was held, pursuant to the provisions of the AMAA, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The proposed amendments set forth below are based on the record of a public hearing held in Franklin, Tennessee, from February 28–March 2, 2023, pursuant to a notice of hearing published January 30, 2023 (88 FR 5800).

The material issues on the record of hearing relate to:

1. Transportation Credit Balancing Fund Provisions
2. Distributing Plant Delivery Credits

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Summary of Testimony and Post-Hearing Briefs

Several witnesses testified on behalf of the Dairy Cooperative Marketing Association (DCMA). DCMA is a common marketing agency operating in the southeast region of the United States (U.S.). Members of DCMA include Appalachian Dairy Farmers Cooperative; Cobblestone Milk Cooperative; Cooperative Milk Producers Association; Dairy Farmers of America, Inc.; Lanco-Pennland Milk Producers; Lone Star Milk Producers Association; Maryland & Virginia Milk Producers Association; Select Milk Producers, Inc.; and Southeast Milk, Inc. According to DCMA, its members market approximately 80 percent of the milk pooled in the three southeastern orders and process and distribute a substantial percentage of the region's Class I fluid milk products through cooperative-owned distributing plants.

Several witnesses testified in support of Proposals 1 and 2 to update the components of the TCBF and mileage rate factor (MRF) contained in the Appalachian and Southeast FMMOs. A consultant witness for DCMA testified milk production in the southeastern region of the U.S. continues to decline as population increases. As a result, the witness stated, the Appalachian and Southeast marketing areas must continually seek supplemental supplies of milk from outside their normal milksheds. The witness stressed that DCMA members must travel farther distances to obtain supplemental milk while at the same time, diesel and non-fuel costs for shipping supplemental milk have risen sharply. The witness explained these marketing conditions result in milk suppliers absorbing a larger percentage of the transportation costs, diminishing the effectiveness of TCBF credits.

The DCMA witness presented a comparison of current and proposed MRF components: base fuel rates; average truck miles-per-gallon (MPG); base haul rates; and average tank sizes. From 2006 to 2020, the witness stated input costs/factors increased by the following: 59 percent for the base fuel rate, 13 percent for average MPG for transport equipment, 92 percent for the base haul rate (costs other than fuel), and 4 percent for the average tank load weight.

The DCMA witness testified that while both population and milk consumption in the region are increasing, dairy farm numbers are declining, necessitating milk traveling farther distances to serve the market. The DCMA witness testified that over the 5-year period 2017–2021, the USDA National Agricultural Statistics Service (NASS) total farm count in the southeast decreased by 719 farms (declining 38 percent, 45 percent, and 56 percent in the Appalachian, Florida, and Southeast FMMOs, respectively). Looking back from 2000 to 2022, DCMA noted in its post-hearing brief that the Appalachian order lost 77 percent of its farms (2,813 to 650 farms), the Florida order lost 75 percent (194 to 49 farms), and the Southeast order lost 86 percent (3,504 to 489 farms).

Regional milk production showed a similar decline of 12.8 percent from 2017 to 2021, according to the DCMA witness. The witness noted every state in the region experienced decreased production over the five-year period; only North Carolina and Georgia had an annual milk production increase from 2020 to 2021.

The DCMA witness used USDA data to describe sources of milk for each of the southeastern Orders. According to the DCMA witness, USDA data reveals in 2021, 46 percent of milk pooled on the Appalachian FMMO was sourced from outside the marketing area. The witness calculated that during the low production month of October, approximately 99 loads of supplemental milk per day, on average for 2019–2021, were needed to meet the pool distributing plant demand of the Appalachian FMMO. For the Southeast and Florida FMMOs, the witness stated that during that same time period, 56 and 18 percent, respectively, of pool distributing plant demand was met from farms outside the marketing area. The witness noted the supplemental milk meeting Florida demand primarily comes from farms located in Georgia.

The DCMA witness testified the closure of fluid milk distributing plants has increased marketing costs for the remaining dairy farms in the southeast region. Citing USDA data, the DCMA witness said the number of pool distributing plants regulated by the southeastern FMMOs was down significantly when comparing 2000 to 2022; a reduction of 39 percent (26 to 16 plants), 33 percent (12 to 8 plants), and 54 percent (32 to 15 plants) on the Appalachian, Florida, and Southeast FMMOs, respectively. The witness argued fewer plants mean longer distances and higher hauling costs to the dairy farms and cooperative handlers delivering milk to the region. DCMA asserted in its post-hearing brief the average miles to procure a load of supplemental milk in October 2020 was 774 miles; a 51 percent increase from 2003.

The DCMA witness presented data showing milk supply deficits in Class I and Class II use in December 2020 and May 2021. Only in one month (May 2021) did a southeastern order (Florida) have enough in-area production to meet Class I milk needs of pool distributing plants. In the other five monthly comparisons, in-area production ranged from 67 to 97 percent of demand. When DCMA accounted for Class II usage, the witness testified, the ability for in-area production to meet the additional demand was further diminished. The witness emphasized that when demand is greater than in-area supply, the southeastern orders must acquire milk from other FMMO areas to meet the demand.

Milk deficits, in addition to longer distances traveled, according to the witness, causes the TCBF to be depleted at a rate faster than the funds are replenished. The DCMA witness reviewed TCBF data on supplemental milk being delivered to Appalachian and Southeast pool distributing plants from 2020–2022. The witness said TCBF eligible loads increased from 5,374 in 2020 to 6,642 loads in 2022 on the Appalachian FMMO and from 15,869 loads in 2020 to 18,217 loads in 2022 for the Southeast FMMO. According to the witness, this import of large volumes of supplemental milk into the two marketing areas would not occur unless necessary to fill pool distributing plant demand.

In addition to longer hauling distances, explained the witness, the TCBF factors have not been updated since 2006, and consequently fall short of providing a reasonable partial reimbursement of current, actual transportation costs. The DCMA witness described four supply and demand scenarios, representative of actual arrangements, to demonstrate the gap between the existing TCBF provisions and those proposed by DCMA, using 2021 data. In the four scenarios outlined, the current TCBF payment accounted for 25 to 58 percent of the amount calculated using the DCMA proposed changes.

The DCMA witness presented recent data to support the proposed changes contained in Proposals 1 and 2. Regarding the base diesel fuel price, the witness stated DCMA supports continued use of the Energy Information Administration of the United States Department of Energy (EIA) data—

specifically, the Lower Atlantic and Gulf Coast EIA regions. The witness reviewed EIA diesel fuel prices and found that May 4 through November 9, 2020, as a 28-week period of relatively stable diesel prices, averaged $2.262 per gallon. The current MRF calculation uses a base diesel price of $1.42 per gallon. According to the witness, the price difference illustrates the need to update the factors, and DCMA supports adopting $2.26 as the base diesel fuel price.

The DCMA witness next evaluated the MPG of combination trucks and supported using U.S. Department of Transportation MPG fuel efficiency data. The most recently published data (2019) showed an MPG rate of 6.0478. The DCMA witness estimated a calculation for 2022 using the five-year change in MPG from 2014–2019 of 0.0430 per year. The witness added this amount annually to the 2019 published rate of 6.0478, yielding a per gallon estimate of 6.1770 in 2022, which DCMA rounded to 6.2. The witness testified DCMA members supported a 6.2 MPG assumption as a reasonable fleet average across operations with varying transport tanks and varying ages of equipment. Additionally, the witness said a higher MPG assumption would lower a TCBF payment and therefore guard against handlers engaging in uneconomic milk shipments to qualify for higher TCBF payments.

The DCMA witness entered data substantiating their proposed base haul rate of $3.67 per loaded mile. According to the witness, DCMA surveyed member haul rates during September and October 2020, representing months of heavy supplemental milk purchases which are included in the May to November 2020 time period used to determine the proposed average diesel fuel price. The witness said the aggregated survey results represented 2,951 supplemental milk hauls from nine states considered traditional sources of supplemental milk to pool distributing plants geographically spread across the three southeastern FMMOs. According to the DCMA witness, the average rate per loaded mile was $3.67, representing an average distance of 818 miles, an average tanker load size of 49,700 pounds, and an average total haul bill of $3,003. The survey results, said the witness, support the DCMA-proposed base haul rate of $3.67 per loaded mile. The surveyed tank size of 49,700 pounds was used to justify increasing the reference load in the MRF calculation. DCMA noted in its post-hearing brief that costs have increased from its calculated 2020 rate, up to as much as $5.10 to $5.25 per loaded mile.

Using the proposed TCBF provisions, DCMA estimated TCBF payments from 2020 through 2022 using USDA data and compared the results with what TCBF payments would have been under current provisions, assuming all claims could have been paid in full. According to the witness, under those assumptions, current TCBF payments represent 59 percent, on average, of what payments would have been using DCMA's proposed updated factors. The witness emphasized the analysis demonstrates how current TCBF provisions are not representative of current transportation costs and should be updated.

Using actual TCBF pounds from 2020–2022, the witness offered an analysis to determine necessary assessment levels under the proposed TCBF provisions. To do so, the witness provided data of TCBF assessments and payments from 2020–2022, including proration. The witness used USDA data to show the impact of various scenarios on the levels of assessment and payments based on two alternative DCMA-proposed MRFs, in comparison to actual TCBF claims and payments. The analysis showed assessment rates needed to fully pay all claims in 2020 could be up to $0.18 and $0.88 per cwt in the Appalachian and Southeast FMMOs, respectively. Based on the analysis, the witness testified DCMA proposes to double the maximum assessment rate in each order, to $0.30 and $0.60 per cwt in the Appalachian and Southeast FMMOs, respectively. DCMA noted in its post-hearing brief a maximum rate of $0.30 per cwt in the Appalachian FMMO would cover full claims immediately and allow room for increases in claims without necessitating proration for some time. Also, according to the brief, a maximum of $0.60 per cwt in the Southeast FMMO will allow for most of the current supplemental milk transportation credits to be paid, with reduced occurrences of proration.

The DCMA witness also elaborated on the proposal to make February an optional, not mandatory, payment month. Since less supplemental milk is needed in February, the witness said it was appropriate for February to no longer be a mandatory payment month so those funds could instead be used in later months when supplemental milk needs are greater. The witness presented data to demonstrate the possible benefits of converting February from a mandatory to an optional payment month. The witness stated the impact of including February as a mandatory payment month is only apparent when payments are prorated, which is not projected to occur in the Appalachian order. For the Southeast FMMO, the witness entered data that showed more dollars would have been directed to the months it was needed in 2020 and 2021, resulting in fewer prorated payment months, had February been an optional payment month rather than a mandatory payment month. The witness reiterated that under DCMA's proposal, a handler could petition the market administrator to request February TCBF payments by providing supporting data and rationale.

Last, the DCMA witness explained the flat mileage deduction of 85 miles for loads delivered directly from farms to distributing plants should be changed to a percentage basis, initially set at 15 percent. DCMA argued the change would more equitably reimburse short and long hauls, thus reducing the potential disorderly incentive to import supplemental milk from greater distances. The witness noted the current 85-mile deduction represented 10.4 percent of the 818-mile average haul observed in the DCMA survey and concluded that a 15-percent deduction is an appropriate initial rate.

In its post-hearing brief, DCMA noted there was only nominal opposition from industry participants to its proposals to amend the transportation credit balancing funds. DCMA reiterated testimony by witnesses supporting its proposals: a decreased supply of milk, fewer plants to process local milk, increased distances to bring in milk, and an increased population in the region. Compounding market disruptions, DCMA argues in its brief, is the increase in the cost of moving milk since the TCBF reimbursement rates were implemented in 2006.

The post-hearing brief touched on changes in the movement of milk as a result of these factors, including movements that often lose value going ''against the grain,'' from south to west or south to north. These movements, the proponents argue, are prime examples of disorderly marketing since the Federal Order Class I price grid is intended to reflect lower prices at supply areas and higher prices at demand points. The region's loss of plants, the proponents argue, has caused the Federal order provisions to be out of sync with the marketplace.

The DCMA witness also offered testimony supporting adoption of Proposals 3, 4, and 5, to establish a distributing plant delivery credit (DPDC) in the Appalachian, Florida, and Southeast FMMOs for marketwide service payments to handlers acquiring consistent, year-round milk supplies for

pool distributing plants. The DCMA witness reviewed data for each of the southeastern orders showing 54 percent, 82 percent, and 44 percent of Class I demand is met with in-area milk production from the Appalachian, Florida, and Southeast orders respectively. According to the witness, in-area milk supplies face the same cost factors as supplemental supplies. However, because there is no transportation compensation for obtaining in-area milk supplies, the cost burden falls on the handlers supplying Class I demand, primarily DCMA cooperatives and their members. The witness asserted that local milk production should be on equal footing for transportation assistance as supplemental milk supplies, as local deliveries promote transportation efficiency. The witness reiterated earlier market statistics showing declines of in-area milk production, farms, and pool distributing plants throughout the southeastern region as justification for adopting DPDC for year-round, consistent milk supplies.

The DCMA witness described the situation in the Florida order, which currently has no transportation credit assistance. According to the witness, a significant amount of milk production is located in central Florida, which is typically delivered to a plant in Miami over 200 miles away. Because Miami-Dade County has the highest Class I differential zone in the country, the Class I differential provides some financial incentive to move milk in that direction. However, when demand at the Miami plant is met, the central Florida milk must move north to a lower Class I differential zone. While the distances may be similar, there is no transportation assistance provided through the differentials to cover the transportation cost. Therefore, the witness said, a DPDC in the Florida FMMO is warranted.

The witness explained the compounding transportation situation in the southeastern Orders by presenting a map of pool distributing plants in 2000 vs. 2022, which showed a decrease from 73 plants in January 2000 to 39 in 2022, a 47 percent reduction. The witness said the decline in farms and plants in the region will continue to lead to increased delivery miles and costs and will put availability of local milk supplies at risk.

The DCMA witness explained the DPDC funds would be separate from the producer settlement fund, be payable to handlers providing the marketwide service of meeting Class I demand with consistent, year-round milk supplies, and not impact the Federal order minimum announced producer blend prices. According to the witness, the proposed provisions establish maximum allowable assessments on Class I milk specific to each Order and guidelines for the market administrator on how to set or waive the rate and investigate misuse, for example, if a handler consistently moves milk uneconomically to collect payment.

The DCMA witness outlined proposed DPDC eligibility criteria. According to the witness, with fewer farms and pool distributing plants, milk regularly crosses state and Federal order borders of the three southeastern orders; therefore, milk from one Order should qualify for payments when delivered to another Order. For the Appalachian and Florida orders, the witness proposed producer milk originating in certain counties outside of the respective Federal order boundaries that are considered part of the milksheds be eligible for a DPDC payment. For the Appalachian order, DCMA included select unregulated counties in Virginia and West Virginia that provide milk to a fully regulated Appalachian order pool distributing plant in the same unregulated area. The counties are also, according to DCMA, the regular source of milk to Appalachian order pool distributing plants in North and South Carolina. Under these circumstances, DCMA argues, the counties are parts of the regular procurement area for the Appalachian order, and the handlers obtaining milk supplies from these counties should be entitled to receive DPDC for those shipments.

The provisions proposed by DCMA also permit milk from an order pool supply plant to qualify for DPDCs in all three orders. According to DCMA, a pool supply plant located in the Appalachian marketing area assembles milk delivered in farm pick-up trucks from smaller producers. The milk is then shipped in larger transports to Appalachian order pool distributing plants. Transporting via supply plant is a necessary method for these producers whose milk is a consistent supply to the market. According to DCMA's proposal, DPDCs would apply only on the mileage from the supply plant to the order's distributing plant.

The Georgia counties included in the DCMA Proposal 4, according to testimony by its witnesses, are a year-round integral part of the supply for the Florida order; therefore, DCMA believes handlers acquiring milk from those areas should be eligible for DPDCs.

According to the DCMA witness, its members, who supply a majority of the milk on the three Orders, face similar cost factors for both regular and supplemental supplies. Therefore, the witness said, it is appropriate for the DPDC payment provisions to be the same as the TCBF provisions.

The DCMA witness estimated the maximum assessment rates needed to fund DPDC payments in each of the three Orders. DCMA's analysis concluded maximum assessment rates of $0.60, $0.85, and $0.50 per cwt on Class I milk pooled on the Appalachian, Florida, and Southeast FMMOs, respectively, were warranted. The DCMA witness explained the assessment rates should initially be set $0.05 lower than the maximum rates to be initially conservative when implementing this new fund. The proposed provisions allow for the market administrator to review and adjust assessment rates in each FMMO, if necessary, after a year of operation.

The witness next discussed the impact changes to the TCBF provisions and establishment of DPDC could have on plant competitiveness in the region. Ultimately, the witness argued, an analysis shows the DCMA proposed assessment levels do not put in-area pool distributing plants at a competitive disadvantage compared to out-of-area plants.

The witness concluded by emphasizing the need for emergency hearing procedures, especially due to the current inflationary economic environment, the fact that transportation costs have not been updated for 15 years, and the changing market structure in the southeastern region. The consequence of not using emergency hearing procedures, the witness claimed, would be more farms going out of business.

A witness from Dairy Farmers of America (DFA), one of the nine cooperative members of DCMA, testified in support of DCMA Proposals 1 through 5. DFA's Southeast Council encompasses the Appalachian, Florida, and Southeast FMMOs, where they have 830 dairy farm members. The witness offered testimony regarding the impact adopting Proposals 1 through 5 could have on the competitiveness of packaged milk delivered into the southeastern marketing areas. The witness analyzed transportation rates for 60 routes within the southeast FMMOs and the surrounding areas to determine how the cost of transporting packaged fluid milk into the marketing areas compared to the proposed TCBF and DCDP assessments contained in Proposals 1 through 5. According to the witness, the results indicate that even with the proposed assessments on Class I milk, packaged fluid milk moving into the marketing areas would not have a

cost advantage over Class I products produced by plants regulated by the three FMMOs and subject to the proposed assessments.

Another witness appearing on behalf of DFA offered testimony on diesel fuel price volatility. To highlight diesel fuel price volatility, the DFA witness charted U.S. EIA monthly retail on-highway diesel fuel prices, both for the U.S. and states comprising the southeast region since 2006 alongside the projection for February 2023 to December 2025. According to the data, since January 2, 2006, diesel fuel prices in the southeast region have averaged $3.19 per gallon, ranging from $1.96 gallon (February 2016) to $5.73 per gallon (June 2022). The witness explained that record low U.S. oil supplies, reduced oil refining capacity, and geopolitical events are all factors driving diesel fuel price volatility and large price ranges. On the demand side, the witness said variability in fuel consumption, the overall health of the U.S. economy and China's rebound from COVID–19 have all contributed.

A witness appearing on behalf of Maryland and Virginia Milk Producers Cooperative (MDVA), a dairy cooperative with approximately 930 dairy farmer members located in 10 states and a member of DCMA, testified in support of Proposals 1 through 5, and specifically on the marketing conditions within the Appalachian marketing area. The witness testified their members' milk is marketed on the Appalachian, Southeast, Northeast, and Mideast orders. MDVA owns and operates two fluid processing facilities within the Appalachian order and supplies milk to several other processors in the region.

The witness testified milk production has sharply declined in the southeast region, down 32 percent over the last 15 years. MDVA therefore relies on supplemental milk from other regions to meet its year-round obligations. The witness testified that during peak demand in late summer and early fall, MDVA requires approximately 25 loads per day of supplemental milk to fulfill demand. The witness stated the MDVA average distance to the market for supplemental supplies from the northeast is 450 miles, and current transportation cost is $4.90 to $5.25 per loaded mile, which equates to roughly $4.43 per cwt of milk. The witness testified that roughly $2.93 per cwt of its cost to transport supplemental milk to the market is not covered by the gain in Class I differential between the supply and demand zones.

In recent years, according to the witness, equipment parts, oil, labor, insurance, and fuel costs have increased. Since TCBF factors have not been updated since 2006, the percentage of the transportation cost covered by the TCBF has decreased. As hauling bills must be paid, the witness said the cooperative relies on either deductions from dairy farmer milk checks or over-order premiums to cover the additional cost. The witness testified regarding MDVA's difficult experience in obtaining and maintaining over order premiums. The witness spoke to the concern of Class I handlers maintaining raw product cost equity with their competitors. The witness said Class I handlers are reluctant to pay over order premiums in the current market environment because they are not assured competitors are also incurring the same cost. In the witness's experience, Class I handlers are more willing to pay for additional transportation costs if it is announced by the FMMO and enforced uniformly on all Class I handlers.

The witness testified Proposals 1 and 2 would align MRF components with current freight rates and adopting those proposals is imperative to maintaining supplemental milk supplies needed to meet Class I demand. Without these updates, the witness stated, handlers will be less willing to provide supplemental milk supplies to the Appalachian order during periods of large deficits, which would negatively impact the region's processing capacity. The witness noted that since the early 2000s, 11 pool distributing plants have closed within MDVA's core area of the Appalachian order. The result is increased distances to the next closest plant, and with it, increased costs to balance Class I demand.

The MDVA witness testified raw milk loads are shuffled based on customer orders to ensure adequate available supplies without exceeding silo capacity. With fewer plants in the network, there are fewer opportunities to use the next plant's silo capacity; this makes the ability to ''stair step'' milk through the region to align supply with demand more difficult and more costly. The witness stated sometimes milk must travel north to find a balancing plant, typically a more costly option.

According to the witness, Class I differentials are not adequately compensating dairy farmers for milk movements within the Appalachian marketing area, which Proposal 3 would address. For example, the witness said, when producer milk is delivered to a plant 200 miles away in a 30 cent-higher differential zone, the change in Class I differential zone only covers about 15 percent of the cost of moving the milk within the market. The witness stated Proposal 3 provides additional compensation and incentives to move milk within the Order and offsets some of the deficiencies in the current Class I differentials.

The witness discussed the challenges of providing supplemental milk to the Appalachian order, such as filling the school milk pipeline and weather-related events such as a snowstorm, which stress already complicated milk marketing and transportation systems. The witness testified to MDVA's efforts last year in meeting increased school demand by assembling, reloading, and then transferring to Class I plants approximately 80 loads of milk from its pool supply plant in Strasburg, Virginia, at great expense to the cooperative. The witness testified that based on their knowledge the MDVA's plant in Strasburg, Virginia, is the only pool supply plant currently operating in this manner in the southeast for the Appalachian, Florida, and Southeast orders. The plant is sourced primarily by small farms in Maryland and Pennsylvania, and much of the milk collected at Strasburg is then reshipped to Appalachian and Southeast FMMO pool distributing plants. The witness opined these deliveries meet the region's Class I demand and should be eligible for DPDC.

The witness also testified in support of extending DPDC eligibility to include unregulated counties in Virginia that supply its plant in Newport News, Virginia, a year-round pool distributing plant on the Appalachian FMMO.

The witness testified that if a handler does not bring in enough supplemental milk, the plant will not have milk for consumers, and consumers will see empty shelves. Consequently, the region's processors face pressure because retailers could go outside of the Order to purchase packaged milk and handlers could lose customers.

The witness stressed that the proposals should be considered on an emergency basis so cooperatives and their dairy farmer-members supplying the region's Class I demand can begin to receive cost recovery that they have been unable to obtain on their own. Without this assistance, the witness opined, more producers in the region would exit the business, further reducing local milk supplies, and negatively impacting local Class I processors.

A witness appearing on behalf of Southeast Milk, Inc. (SMI), a member of DCMA, testified in support of Proposals 1 through 5, and their adoption on an emergency basis. SMI is a dairy cooperative with approximately 135

dairy farmer members pooled on all three southeastern orders.

The SMI witness testified specifically in support of Proposal 4 to adopt DPDCs for the Florida FMMO. Milk produced in and pooled on the Florida FMMO has steadily declined since 2016, according to the witness. The witness cited USDA data showing 87 percent of the Order's milk in 2019 was produced in Florida, compared to 76 percent in 2022. The witness noted that of 24 states in NASS's monthly milk production report, Florida had the largest year-over-year milk production decline in 2022, a decrease of 10.9 percent. In 2022, the state of Florida reported its lowest milk volume since 1984.

According to the witness, reasons for declining milk production in Florida include higher freight costs (a high percent of dairy feed, supplies, and fertilizer are imported into the state), environmental challenges, opportunity costs, urbanization, and lower margins. The witness argued the implementation of Proposal 4 would ease the transportation burden cooperatives face in supplying the Class I market and help slow the decline of Florida milk production.

The SMI witness stressed that less milk produced in Florida means more milk from outside the state is needed to supply the Order's fluid milk needs. The witness testified, based on SMI marketings and personal industry knowledge, a significant portion of milk sourced from outside the marketing area comes from the 49 South Georgia counties included in Proposal 4. While South Georgia historically served as the reserve milk supply for the Florida market, as production has declined in Florida and increased in Georgia, South Georgia is now a regular milk supplier to Florida pool distributing plants. The witness said that at a minimum, South Georgia milk must travel 225 miles from the Florida-Georgia border to the closest pool distributing plant. As these South Georgia counties now serve as a regular source of producer milk for the Florida order, the SMI witness testified, Proposal 4 is needed to provide some level of reimbursement of hauling expense for the distance the milk travels to Florida pool distributing plants.

Similar to other witnesses, the SMI witness discussed the common occurrence of milk moving against the Class I differential surface because there are fewer pool distributing plants. According to the witness, in January 2023 all of SMI's Appalachian order milk moved from a higher ($4.00) to a lower ($3.60) zone. Of the cooperative's milk pooled on the Southeast and Florida FMMOs, 44 percent and 14 percent, respectively, moved from higher to lower Class I differential zones, the witness said. The SMI witness concluded that implementation of Proposal 4 will assist the cooperative in recouping transportation costs for milk, especially for milk that receives no additional assistance through changes in Class I differential zones.

The SMI witness entered transportation costs it has experienced, as SMI owns and operates its own milk hauling fleet. Cost data included average annual diesel fuel prices (up 129 percent from 2020 to 2022), average annual milk hauler wages (up 38 percent from CY2018 to CY2023 YTD), and other increases to purchase new trucking equipment. The witness also spoke to other increases such as, but not limited to, employee benefits, insurance premiums, and equipment maintenance. For January 2023, the witness stated, SMI hauling costs are nearly double what would have been covered by the TCBF under the proposed provisions in Proposals 4, 5, and 6. SMI, the witness testified, attempts to improve efficiency of milk hauling and to control expenses, but those efforts only offset a portion of the higher milk hauling expenses. The cost to haul milk from SMI member farms to pool distributing plants greatly exceeds the proposed DPDC.

This witness also addressed the cooperative's efforts to recover some of the increased costs through over-order premiums. While SMI does collect some over-order premiums, the witness said they do not cover all the costs of servicing the fluid market. Buyers are concerned about competitors and seek to ensure equal raw product cost which, according to the witness, is the key to orderly milk marketing. The witness testified processors prefer to pay through the Federal order system because it provides assurance of equal footing with competitors.

The witness noted that Proposal 4 does not change diversion requirements. Diverted milk would not be eligible to receive the DPDC; only milk delivered to a pool distributing plant could receive the credit.

Finally, regarding the request to consider the proposals on an emergency basis, the SMI witness testified that adopting DPDCs would provide cooperatives, handlers, and subsequently their dairy farmer-members, with much needed cost assistance to continue serving the Florida market.

A third DFA witness testified regarding the marketing conditions in the Southeast FMMO. The witness said the volume of Class I milk pooled on the Southeast order has been declining, but at a slower pace than the in-area milk production decline. This results in increasing volumes of milk being delivered to Southeast order pool distributing plants from outside the marketing area at greater expense, a cost primarily borne by the farmers that supply the market.

The DFA witness stated the cost of milk hauling has increased over the last several years, and clearly has increased since Class I differentials were last updated. The witness said the location of supplemental milk sources varies based on the location of the plant and the distance to the plant. The witness testified there are currently 15 pool distributing plants regulated on the Southeast order, 13 of which likely receive substantial quantities of supplemental milk. According to the witness, the distance to move milk to most of these plants is considerable. The witness said the Southeast order plants in Georgia are generally most-practically served with supplemental milk supplies from the north, and occasionally with milk from the Central and Southwest marketing areas.

The witness testified that hauling costs for moving milk from the Southwest to Southeast order are between roughly $4.85 and $5.10 per loaded mile. In a sample milk haul, incorporating the Class I differential and location value impacts, a blend price gain moving milk into the Southeast order would cover about 45 percent of the cost of hauling. The witness concluded that the expected TCBF payment would cover approximately 16 percent of the real cost of hauling.

The witness emphasized that while the TCBF payment only covers a portion of the cost of hauling, handlers and cooperatives are guaranteed to receive it. Since over-order prices are rarely sufficient to cover the large differences in hauling costs, dairy farmers are left to pay the remainder, the witness stressed. The witness spoke of the difficulty in negotiating and maintaining over-order premiums with a Class I plant. Factors like the location of the receiving plant and the distance the plant is to a viable supplemental milk source, the plant's relative access to local supplies, and its net need for supplemental milk cause additional costs to vary by plant. The witness emphasized that unequal costs of milk is a recognized source of market disorder.

The witness also testified on hauling capacity challenges faced by supplemental suppliers. Challenges include supply chain shortages for trucks and trailers, lack of qualified and willing truck drivers, rules on allowable

hours for trucks to run each day, and truck scheduling challenges. Hauling schedules are so tight, the witness noted, even the smallest variation in the daily delivery schedule can disrupt logistics for several days and create additional costs that are borne by the cooperative suppliers.

The DFA witness concluded that Proposals 1 and 2 would benefit consumers with an unimpeded and orderly flow of milk into the region and regulated Class I processors with a continued supply and orderly pricing of milk. Without a properly functioning transportation credit system, the witness argued, the region's milk supply would be threatened.

The third DFA witness also testified in support of Proposals 3, 4, and 5, specifically, why raw milk produced in the state of Georgia and transported throughout the southeastern orders should be eligible for the proposed DPDCs. The witness referenced a map comparing U.S. milk production in 2021 and 2022 showing that of the southeastern states, Georgia was the only state with significant milk production growth. Yet, the witness said, the growth of milk production in Georgia does not compensate for the decline in milk production in Florida alone. Meanwhile, Florida and Georgia are experiencing record population growth, according to the witness, which increases demand for fluid milk.

The DFA witness said the DFA milk supply in Georgia's southern counties delivers daily to Florida pool distributing plants, serving the market's Class I demand. In 2022, the witness testified, 31 percent of the DFA milk in the southern Georgia counties shipped to Florida pool distributing plants.

In addition to Florida, the DFA witness said, Georgia milk production regularly serves the Class I demand and reduces the need for additional milk to serve the region from longer distances and at higher costs. Unfortunately, the witness explained, many of these Georgia milk movements have no Class I differential value gain and cause the cooperative to incur substantial transportation costs. DPDCs, the witness testified, would provide much-needed relief to cooperatives and their local dairy farmer-members who provide consistent milk supplies. The witness noted Proposals 3, 4, and 5 would not change pooling provisions on any of the three FMMOs and would continue to allow diversions on pounds on which a DPDC is requested. The witness supported this provision because there are times during the week, month, and year when milk production is not delivered to pool distributing plants within the local milkshed. However, milk still needs to be marketed, and it is sometimes necessary to divert production to a non-pool plant, according to the witness, and those producers still expect to receive the FMMO blend price.

This DFA witness spoke to the difficulty in recovering transportation costs through over-order premiums as opposed to the FMMO system. The witness testified that for transparency and fairness, buyers prefer to have costs come through the FMMO system and FMMO price announcements.

Finally, the DFA witness testified to the urgency of a decision on the proposals to provide cost recovery to cooperatives handlers and their dairy farmer-members. According to the witness, dairy farmers are going out of business every day, even with higher milk prices in 2022. The witness expects there will be as many going out of business in 2023 as there were in 2022. Many farms are relying on the possibility of additional transportation assistance in the form of TCBF and DPDC payments to their cooperatives. The witness concluded that any delay would cause closure of more businesses, which would place more burden on the remaining local farms.

A Georgia DFA producer-member testified on current dairy market conditions in the region. The witnessed expressed support of updating the Appalachian and Southeast FMMOs' TCBF provisions and implementing a similar program (DPDCs) for locally produced milk in the Appalachian, Florida, and Southeast FMMOs.

The witness further elaborated on the rise in on-farm input costs that farms in the region face. According to the witness, the largest cost increases from 2021 to 2022 included nitrogen fertilizer (289 percent), diesel fuel (89 percent), corn (93 percent), interest (80 percent), and medicine and supplies (70 percent). The dairy farmer witness went on to explain that not only have the dairy farm's input costs risen, but so have the cost to haul milk. The witness explained the two plants closest to their dairy farm closed and now the milk must travel nearly 6 times as far, 292 miles, to a plant in Orlando, FL. The witness said that the cost to haul milk went from $1.32 per cwt in 2021 to between $2.37 and $2.45 per cwt in 2022. The witness claimed these cost increases have tightened margins and impeded the dairy farm's ability to grow.

The witness said the southeastern U.S. has the most significant milk deficit in the country, and it is exacerbated with the simultaneous rise in population and decline in dairy farm and milk production numbers. The witness testified the financial costs of importing supplemental milk and increasing hauls to fluid milk plants (due to plant closures) are primarily the burden of the region's dairy farmers, through their cooperatives, to ensure the market's Class I demand is met. According to the witness, adoption of Proposals 1 through 5 would help correct this imbalance by providing transportation assistance reflective of current market conditions.

Finally, the witness closed by urging USDA to implement updates to the transportation credit programs expediently. The witness cited weakening projected price relative to rising input costs as the primary driver for expediting the process.

A Missouri DFA dairy farmer member testified in support of Proposals 1 through 5. The witness said because their farm is located within the Southeast FMMO marketing area, it is not eligible for TCBF payments. The witness explained that dairy farmers (mostly small businesses) in the state have struggled in recent years. The witness shared data showing how milk production in Missouri declined nearly 50 percent, and the number of dairy herds decreased nearly 70 percent from 2006 to 2022.

The witness claims that with fewer dairy farms, there is a bigger burden on those still in business to supply the market. As a result of plant closings, the witness said their milk must travel further to find a market. The witness testified their annual hauling costs increased, on average, $9,000 in the most recent two-year period. With input costs rising across the board—feed, fuel, fertilizer, crop inputs, and labor—the witness testified to a financial strain faced on their farm and other similar operations in the region. The witness opined the proposals should be considered on an expedited basis, as this issue is of immediate importance.

A North Carolina dairy farmer representing MDVA testified in support of Proposals 1 through 5. The witness said their hauling costs have increased roughly 50 percent in the past decade and their local market has shifted farther away from Charleston, South Carolina, to Asheville, North Carolina.

The witness explained there are times their milk and other MDVA members' milk is not delivered to its closet plant because the cooperative is managing the milk movements of both the members' local supply and the supplemental supply it procures to ensure the region's Class I demand is met. In these instances, the extra hauling cost is borne by all cooperative members through a

hauling subsidy paid for by all members. The witness asserted that adoption of the DPDC would provide financial help to the cooperatives and their members.

The witness claimed that the current Class I differentials and current TCBF provisions do not generate enough dollars to cover the true cost of moving milk. According to the witness, dairy farmers in the southeastern region, many of whom are not eligible for a TCBF payment, are doubly burdened. Members not only pay the higher transportation costs to ship their milk to a plant, said the witness, but they also share the transportation costs of procuring needed supplemental milk. The witness urged the rulemaking be conducted on an emergency basis to provide much needed cost relief to the region's cooperative handlers and their dairy farmer members.

A Tennessee dairy farmer-member representing the Appalachian Dairy Farmers Cooperative (ADFC), a member of DCMA, testified in support of Proposals 3, 4, and 5. The witness testified 97 percent of the 71 dairy farmer-members of ADFC producers are small dairies, as are nearly all other dairies in the area. The witness said the area has lost 80 percent of its dairies in the past 20 years, including 70 members of ADFC in the past 5 years.

The witness stated that, while not only having to pay to transport their own milk, ADFC dairy farmer-members also bear the transportation cost of bringing in supplemental milk to ensure Class I demand is met. These costs have significantly increased in part, the witness said, because it is difficult to find haulers. The witness estimated the cost to produce milk represents about 80 percent of their milk check, and hauling costs (which have doubled in the last five years) account for an additional 8 percent.

The witness testified USDA should treat the issues before it is urgent, and use expedited emergency hearing procedures.

In its post hearing brief, DCMA summarized its arguments supporting Proposals 3, 4, and 5 implementing DPDCs in the Appalachian, Florida, and Southeast orders, to reimburse handlers for a portion of the cost of delivering in-area and nearby milk. DCMA reiterated in its post-hearing brief that, for the Appalachian and Southeast orders, the respective marketing areas are considered in-area sources of milk. DCMA argued in its brief that those sources are not eligible for TCBF but should be eligible for DPDC.

In its post hearing brief, DCMA argued it is not possible to obtain transportation relief in the southeast area without adoption of the proposed DPDC. DCMA synthesized points made in its and other witness' testimonies that cooperatives are unable to obtain reimbursement from the market. According to the brief, the main alternative, over-order premiums, are difficult to maintain and challenging to increase. On the other hand, DCMA argued, incorporating a program for transportation costs within FMMO provisions would treat all suppliers and buyers equitably. Their brief indicated cooperatives and handlers are generally more able to pass through Class I costs to buyers that are specifically outlined on FMMO price announcements as would be the case under their proposals.

DCMA concluded in its brief that adoption of DPDCs would provide their customers with the price transparency they prefer through rates published on FMMO price announcements, assuring them of uniform raw milk costs with competing Class I handlers while enabling cooperatives that provide the market with Class I milk to receive transportation cost reimbursement reflective of current market conditions.

In its post-hearing brief, Select Milk Producers, Inc. (Select), a DCMA member cooperative, emphasized support for the FMMO system and its role in promoting efficient milk movements, producer operations, and milk procurement. The brief reiterated support of the transportation credit system in the Southeast due to unique conditions and that program provisions should be updated. Select indicated support for considering the regulatory changes on an emergency basis, and therefore omitting a recommended decision, as transportation credit regulations do not directly impact milk prices. While Proposals 3, 4, and 5 would include additions to their respective Orders, they are operationally and methodologically similar to existing transportation credit provisions and therefore have little economic and regulatory impact, according to the brief.

The dairy farmer proponent of Proposal 11 submitted a post-hearing brief opposing Proposals 1 through 5. In the brief, the farmer opined that doing nothing would lead to a better outcome than adopting the proposals. The dairy farmer argued the distance milk travels should not be treated as a performance standard and receive special treatment. If changes are to be made, however, the farmer insisted on the uniform treatment of all milk.

A witness from Prairie Farms testified in opposition to the proposed DPDC because payments would only apply to out-of-area milk from a select list of counties, instead of all out-of-area counties that regularly deliver to pool distributing plants. The witness claimed giving privilege to a few counties in Georgia, Virginia, and West Virginia, as written in Proposals 3 through 5, is not fair and equitable, especially when year-round deliveries of out-of-area milk is necessary to meet the fluid milk needs of the southeastern FMMOs.

In its post-hearing brief, Prairie Farms summarized its opposition to Proposals 3, 4, and 5 and maintained the record contains abundant evidence showing a growing milk deficit persisting in the southeastern U.S. The record demonstrates that pool distributing plants in the southeastern FMMOs need out-of-area milk on a year-round basis, but Proposals 3, 4, and 5 do not offer any assistance in obtaining year-round transportation assistance on out-of-area milk. They believe qualifying some out-of-area counties to participate in DPDC, but not others, even if they consistently supply milk to pool distributing plants in the region, is discriminatory.

A Prairie Farms witness testified in support of Proposals 6 through 10. According to the witness, Prairie Farms is a Capper-Volstead cooperative with 682 dairy farmer members in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, and also markets milk for non-cooperative members in Texas. Prairie Farms operates Class I, II and III plants throughout the central U.S., including nine plants regulated on the Appalachian and Southeast FMMOs.

The witness asserted the milk supply in the southeast region has been declining for many years, while population has increased, resulting in milk being imported from outside the region to meet demand. The witness explained this region was historically short in certain seasons, but now faces a year-round shortfall. Describing the lack of flexibility of the current TCBF program, the witness emphasized the importance of simplicity to allow the system to better adjust to future supply and demand changes.

The witness cited USDA data on milk production in the southeastern states in 1997 and 2021, showing that production has declined in greater proportion compared to the decline in consumption. The witness concluded that the data shows the 11 Southeastern states currently produce 73.3 percent of their fluid milk needs, down significantly from 1997.

The witness continued by showing the shortfall of milk in the region that currently exists in the spring flush months of March, April, and May.

However, as the current system exists, the witness said, if a handler pools too much of a producer's milk on the Appalachian and Southeast orders in the spring, they are not eligible to claim a TCBF payment on that producer's milk in the fall, despite the market's need for the milk in the spring. The witness supported eliminating the location and delivery criteria in the current TCBF provisions, as contained in Proposals 6 and 7, that currently prevent handlers from qualifying for a fall TCBF payment for producers whose milk is pooled in the spring. The change proposed by Prairie Farms would allow handlers to receive a TCBF payment on milk shipments from these producers.

The witness provided examples of origin to destination locations milk travels as incentivized (or disincentivized) by the existing transportation credit system. One example showed a delivery traveling 21 miles further than necessary, to receive approximately $300 more in a TCBF payment. A second example showed milk traveling 21 miles farther increased the TCBF payment by nearly $700. The witness contended that without the current pool qualification provisions, there would not be financial incentive for these inefficient movements to occur.

According to the witness, removing the current TCBF location qualification provisions would allow producer milk located in the marketing area to be eligible for TCBF payments using the same calculations as milk from outside the marketing area. The witness testified transportation credits available only on milk produced outside the Appalachian and Southeast FMMOS does not incentivize efficient in-area milk movements. Rather, the witness said it would be more equitable and incentivize efficient milk movements for all milk delivered to pool distributing plants, regardless of where it originated, to be eligible for TCBF payments. This, the witness stated, is especially true as the milk supply shrinks in the Southeast and the population increases.

Regarding Proposals 8, 9, and 10, the Prairie Farms witness explained the proposed Assembly Performance Credits (APC) would compensate handlers for assembly, dispatch, and delivery costs incurred on all producer milk received at pool distributing plants. According to the witness, the proposed $0.50 APC assessment is based on the proponents' internal data on the costs of supplying milk to the Appalachian, Southeast, and Central FMMO pool distributing plants, and could be adjusted at the discretion of the market administrator. According to the witness, the APC is fair and equitable for both handlers and producers since a uniform assessment rate is applied for the Class I milk, and a uniform credit is received on the producer milk delivered to the distributing plants, regardless of origin.

The witness explained how the APC would offset some milk dispatch costs, which include day-to-day variations in storage capacity and demand on the plant side. As APC payments would not change depending on mileage, the witness said there would not be an incentive to maximize distance.

The witness also addressed the impact of rising costs on Prairie Farms' members. According to the witness, Prairie Farms pays it members FMMO blend prices; therefore, rising costs that are decoupled from FMMO pricing ultimately reduce the cooperative earnings and, consequently, the patronage to their member producers and other cooperative members that supply Prairie Farms plants. The witness spoke to the difficulty in recouping these additional costs through the marketplace, largely because customers claim a lack of visibility and confidence in over-order premiums.

In closing, the witness testified that the combination of the year-round uniformly applied APCs and seasonal TCBF payments applied to all in-area and out-of-area milk will promote efficient producer milk deliveries. The Prairie Farms witness said the APC should be viewed as a marketwide benefit because it would increase returns to cooperatives and their members, which will assist in maintaining and growing the local milk supply, thus resulting in less reliance on supplemental milk supplies to meet Class I demand.

The witness stated that Prairie Farms' preference is for USDA to adopt APCs instead of DPDCs. However, the witness testified that an acceptable alternative would be expanding the list of out-of-area counties eligible for DPDCs to address their concern for handlers acquiring out-of-area milk on a year-round basis to supply the Class I market. In testimony, the witness supported including the same restrictions on diversions for in-area milk as those contained in the TCBF provisions, or removing diversion restrictions in both programs. Prairie Farms requested the rulemaking be conducted on an expedited basis as the milk supply issues of the southeastern FMMOs are critical.

In its post-hearing brief, DCMA argued in opposition to Proposals 6 through 10, stating the proposals would not address the marketing challenges in the Southeastern FMMOs and are not supported by a substantial number of producers in the Southeastern marketing areas. DCMA argued the record does not contain cost justification or analysis supporting any of the changes contained in Proposals 6 through 10. DCMA stated that if location and delivery eligibility provisions were eliminated, as contained in Proposals 6 and 7, TCBF payments would be drastically reduced due to lack of funds. According to DCMA, adoption of Proposals 6 and 7 would double the volume of eligible pounds and would likely result in a payment of less than 10 percent of actual costs. DCMA continued in its brief that even if Proposals 6 and 7 incorporated the new assessment rate and updated the MRF as proposed, the pro rata percentage would result in a very low payment. DCMA argued the proponent of Proposals 6 and 7 had not analyzed the impact of the proposals, and, as a result, the record lacks support for their adoption.

DCMA's post-hearing brief similarly opposed Proposals 8 through 10, arguing the proponent provided no substantial cost-justification for the proposed $0.50 assessment rate. DCMA wrote that the proponent's testimony regarding wide variances in assembly, dispatch, and delivery costs was not supported by any detailed costs. Further, DCMA wrote the record lacks analysis and justification for the proposed assessment and APC payment calculation credit. DCMA argued that by directing new revenues to all producer milk irrespective of its location, the APC proposals continue the disparate treatment of in-area versus out-of-area milk supplies, and do not recognize the unique costs and challenges of in-area milk deliveries. DCMA argued a substantial proportion of the new revenues generated by the APC credit would be allocated to out-of-area producers and not toward supporting the delivery of local in-area producer milk.

A Tennessee dairy farmer testified in support of Proposal 11 which would prohibit milk diverted from a pool distributing plant from receiving any form of transportation credit. The witness discussed milk diversions as milk associated with a pool plant, but not received at a pool distributing plant on a particular day. According to the witness, in the deficit market of the Southeast, diversions are another revenue-source for the cost of moving milk, similar to transportation credits. The witness opined a handler's ability to divert milk should be as limited as possible.

The witness testified changes should be made to the Southeast order to make the value of milk at the plant more transparent and reflective of the true cost. To achieve this, the witness proposed an aggregated, audited publication of the price plants pay for milk in the region. The witness advocated for publication of over-order premiums so dairy farmers could use that information when negotiating with handlers.

According to the witness, when transportation credits were adopted in 1996, they were intended to be used for supplemental milk; however, now they are used to regularly supply the market. The witness said that while a handler can collect transportation credits to haul milk, payments do not reflect the full cost of the haul. The remainder of the cost, according to the witness, is deducted from the local producer's milk check which ultimately leads to less local milk production and greater reliance on more costly supplemental milk deliveries.

A witness representing the Milk Innovation Group (MIG), a group consisting of fluid processors and producers (Anderson Erickson Dairy, Aurora Organic Dairy, Danone North America, Fairlife, HP Hood, Organic Valley/CROPP Cooperative, and Shamrock Foods), testified regarding the proposed APCs. The witness said MIG members support allocating more Class I dollars to producers that are supplying the Class I plants to keep a local milk supply for their plants.

The MIG witness expressed concern over efforts to increase minimum regulated Class I prices through any transportation cost-related assessment on Class I milk as fluid milk sales continue to rapidly decline. While the witness opposed the APC $0.50 per cwt assessment on Class I milk, they were supportive of the APC concept which they believe would better align the Class I supply chain since it is funded out of the pool, not an additional payment on top of the pool that would artificially raise Class I prices. The witness cited current Upper Midwest FMMO assembly credit provisions as a possible alternative.

MIG's post-hearing brief reiterated its opposition to Proposals 6, 7, and 8 due to the price-enhancing nature of the provisions while fluid milk sales continue to decline. MIG maintained FMMOs do not and cannot serve to enhance producer prices, but rather operate to set the minimum price necessary to avoid disorderly marketing and ensure a sufficient supply of fluid milk. MIG concluded that proponents of Proposals 6 through 8 fail to consider consumers when they seek to increase Class I prices without justification, especially during a time of rapid inflation.

In its post-hearing brief, DCMA rejected MIG's argument to fund a transportation assistance program out of existing marketwide pool revenues. DCMA argued that type of funding mechanism would not support the costs to produce milk for or move milk to the region's pool distributing plants. According to DCMA, re-shuffling existing pool revenues would have no effect and provide no actual cost assistance. DCMA concluded that new revenues are needed to target the cost of delivering milk to the demand points in the marketing areas, as offered in DCMA's proposals.

Comments and Exceptions

The recommended decision provided a 60-day comment period which ended September 18, 2023. Five comments were filed in response to the recommended decision. Two comments were outside the scope of this decision. Three comments are addressed in the applicable sections of this final decision.

Discussion and Findings

The purpose of this proceeding is consideration of changes to the transportation credit provisions of the Appalachian and Southeast FMMOs for supplemental milk, and adoption of distributing plant delivery credits (DPDC) or assembly performance credits (APCs) for milk deliveries to pool distributing plants in the Appalachian, Florida, and Southeast FMMOs.

The Appalachian and Southeast FMMOs currently contain transportation credit provisions for supplemental Class I milk deliveries. The provisions were first adopted through a 1996 proceeding (62 FR 39738) to address the need for supplemental milk to meet the Class I needs of the two FMMOs. These transportation credit provisions provide payments to handlers to cover a portion of the cost of hauling supplemental milk supplies into the Appalachian and Southeast marketing areas during months when these deliveries are most needed to ensure Class I demand is met (January, February, and July through December). The provisions were amended in 2006 (71 FR 62377) and 2008 (73 FR 14153) to, among other things, adopt a mileage rate factor. The MRF is adjusted monthly by changes in the price of diesel fuel to ensure current fuels costs are reflected in payments on eligible shipments, amend the qualification requirements for supplemental milk and increase the maximum TCBF assessment rates. The Florida FMMO currently has no transportation credit provisions.

The current transportation credit provisions are tailored to distinguish between producers who regularly supply the market and those primarily delivering milk when the market is most at deficit (considered supplemental suppliers). Under the current provisions, only milk from producers who are located outside of the marketing areas and are not regular suppliers to the market are eligible to receive transportation credits. Producer milk received at a pool distributing plant eligible for a transportation credit under the orders is defined as bulk milk received directly from a dairy farmer who: (1) not more than 50 percent of the dairy farmer's milk production, in aggregate, is received as producer milk during the immediately preceding months of March through May of each order; and (2) produced milk on a farm not located within the specified marketing areas of either order. Milk deliveries from producers located outside the marketing area who are consistent suppliers to the market or from producers located inside the marketing areas are not eligible to receive transportation credits.

The policy objective of the AMAA is ''. . . to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce . . .'' (7 U.S.C. 602(1)). The AMAA further instructs the Secretary to maintain ''. . . an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.'' (7 U.S.C. 602(4)). In the Appalachian and Southeast FMMOs, this policy objective is achieved, in part, through transportation credit provisions that ensure an adequate fluid (Class I) milk supply.

The record reveals that all three orders (Appalachian, Florida, and Southeast) lack in-area milk production to meet the region's Class I demand. Record evidence illustrates this long-standing regional issue which the current transportation credits aim to address through economic incentives for supplemental milk deliveries to the region's pool distributing plants when most needed. While the current transportation credit provisions have been successful in ensuring Class I demand is met, the record reveals the reimbursement levels do not reflect the current transportation cost environment. As a result, handlers and cooperatives who provide the marketwide service of delivering milk to the Class I market

incur transportation costs that they cannot recover.

The 2006 Final Decision (79 FR 12985) details the region's milk deficit at that time and recommended changes to existing transportation credit provisions to account for reasonable transportation cost reimbursement for supplemental milk deliveries to Class I plants in the region. Record evidence from the current proceeding reveals the region's milk deficit has continued to worsen. According to the record, the number of licensed dairy farms located within the Appalachian, Florida, and Southeast FMMOs have declined approximately 38, 50, and 57 percent, respectively, from 2017 to 2022. Data shows 2021 in-area milk production in the Appalachian, Florida, and Southeast FMMOs represented 54, 82, and 44 percent of their respective milksheds. Put another way, in 2021, 54 percent of the milk pooled on the Appalachian FMMO was produced within the geographic boundaries of the order. Consequently, a significant volume, 46 percent, of the Order's needs had to be met from milk produced outside the marketing area.

An objective of the FMMO system is meeting Class I demand, and the record reveals a consistent lack of in-area milk production to meet demand. In the Appalachian FMMO, from 2019 to 2021, the average daily in-area milk production deficit ranged from 3.3 to 4.9 million pounds below pool distributing plant demand. In other words, on an average day, pool distributing plants needed anywhere from 3.3 to 4.9 million pounds of milk (67 to 99 tanker loads) from outside the marketing area to meet pool distributing plant demand. The same daily deficit in the Florida FMMO ranged from 100,000 pounds to 1.4 million pounds (2 to 28 tankerloads), and 3.8 to 6.5 million pounds (77 to 131 tankerloads) in the Southeast FMMO.[1]

The record also reveals that while handlers and cooperatives are delivering supplemental milk to meet pool distributing plant demand, they are not able to recoup a significant portion of the transportation costs incurred. Cooperative witnesses testified they perform this service despite the financial loss because the consequences of not fulfilling the market's Class I needs outweigh the loss from transportation costs. They spoke of the importance of meeting pool distributing plant demand to ensure these plants remain an open and available market outlet for local producers.

Cooperative handler witnesses testified that their efforts to ensure Class I market needs are met come at a cost to the cooperative and its members. The inability to recover the additional transportation costs through negotiations with milk buyers was a common theme of the testimony. The record shows that not only are local producers paying directly for the increased transportation costs of their milk, but the cooperative often charges a hauling fee to offset the additional cost of bringing in supplemental supplies, which is not covered by either the current transportation credit provisions nor the differences in Class I differential zones between the supply and demand counties.

The record reveals a significant reduction in the number of Class I plants in each of the Southeastern orders and an increase in the distance milk travels to a Class I plant. According to record data, in January 2000, there were 73 Class I plants located in the 3 marketing areas (pool distributing plants and partially regulated distributing plants). By December 2022, the record reveals only 39 plants, a reduction of 46 percent. Consequently, as testified to by several cooperatives and in-area producer witnesses, the average miles traveled and transportation costs for both in-area and supplemental milk movements have increased.

As highlighted above, the record evidence clearly demonstrates the continued milk deficit problem in the three Southeastern orders and its impact on producers, cooperatives, and handlers serving the markets. The overarching issue in this proceeding, which all the proposals seek to tackle, is how to best address the chronic milk deficit problem. Under consideration in this proceeding are two different approaches. The first, offered by DCMA, would amend the current TCBF provisions of the Appalachian and Southeast FMMOs for supplemental milk to reflect current cost factors (Proposals 1 and 2) and simultaneously adopt DPDCs in all three Southeastern orders to aid in moving year-round, consistent milk supplies located within and nearby the marketing areas to meet Class I demand (Proposals 3 through 5). Taken together, these proposals would offer partial transportation cost reimbursement for most milk deliveries to pool distributing plants in the region.

The second approach, offered by Prairie Farms, Inc., would adopt new year-round APCs in all three southeastern orders (Proposals 6 through 8) for all milk deliveries to pool distributing plants in the region, while also making changes to the current TCBF provisions to remove location and delivery eligibility criteria (Proposals 9 and 10). In practice, this would make the same milk deliveries eligible for both APC and TCBF payments.

As explained in the summary of testimony, all milk deliveries to a pool distributing plant would be eligible to receive an APC. The payment rate would be determined by the assessments collected on all Class I milk pooled during the month (proposed to be $0.50 per cwt), divided by all milk deliveries to pool distributing plants. The resulting per cwt payment would not be tied to mileage but would offer partial reimbursement to handlers and cooperatives for the assembly, dispatch, and delivery costs of moving milk to meet Class I demand.

Proponents argued the APC is a better method of cost reimbursement compared to DPDC because it would not encourage inefficient milk movements that could occur with mileage-based cost reimbursement. They also likened the proposed APCs to assembly credits currently in the Upper Midwest (UMW) FMMO, which they contended are sufficient to attract milk away from pool supply plants to pool distributing plants.

The record of this proceeding does not contain adequate evidence to support adoption of an APC. The hearing evidence does not contain data demonstrating how the $0.50 per cwt proposed assessment rate is representative of any of the costs (assembly, dispatch, and delivery) the APC is purported to offset. Furthermore, while proponents referenced use of an assembly credit in the UMW order, marketing conditions in the three southeastern orders are vastly different. The UMW order has abundant milk supplies locally to meet Class I demand, with a 2022 average Class I utilization rate of 7 percent.[2] In contrast, the average 2022 Class I utilization rates of producer milk were 70 percent, 83 percent, and 72 percent, in the Appalachian, Florida, and Southeast orders, respectively. While the UMW assembly credit provisions offer financial incentives for milk movements from pool supply plants to pool distributing plants, the abundance of milk produced, and relatively low percentage of Class I use in the marketing area, does not necessitate long hauls like those regularly occurring in the three orders at issue in this proceeding.

As documented in this hearing record, the market conditions in the

[1] Assuming 49,700-pound tanker.

[2] Upper Midwest Federal Milk Marketing Order Statistics.

southeastern region are vastly different than other regions of the country. Local milk supplies cannot meet Class I demand, necessitating the procurement of significant supplemental supplies from outside the marketing areas. While proponents assert the APC would provide full cost reimbursement for the first 50–60 miles traveled, the proposal does not address the reality that supplemental milk supplies travel over 700 miles, on average, to meet Class I demand. The record does not indicate that a non-mileage-based reimbursement mechanism, such as proposed through the APC, would ensure Class I demand would be met. Accordingly, Proposals 6, 7 and 8 continue to not be recommended for adoption.

Regarding the current TCBF provisions, it is appropriate from time to time to evaluate whether the provisions continue to meet their purpose, and if so, reflect the current transportation cost environment. The TCBF provisions have existed for over 25 years to assist with moving milk to pool distributing plants in the milk deficit Southeastern FMMOs. This decision finds the milk supply/demand imbalance in the Appalachian and Southeast orders continues to persist and the TCBF provisions of those two orders continue to provide necessary transportation cost assistance to ensure Class I needs are met.

Witnesses from multiple DCMA member cooperatives testified that while TCBF payments help offset some of the cost to procure supplemental milk supplies, they have been unable to recoup the remaining transportation cost from the market and are therefore incurring significant financial losses. Hearing evidence indicates current transportation credits cover approximately 58 percent of actual costs, assuming assessments collected do not necessitate prorating claims. However, in the Southeast FMMO where payments are often prorated, hearing evidence suggests costs covered were as low as 40 percent in 2021. The cooperative witnesses questioned their ability to continue to provide adequate supplemental milk supplies in the future without some financial relief in the form of updated provisions to better reflect actual costs.

Ensuring Class I demand is met is essential to the FMMO system in meeting its objective of maintaining orderly marketing conditions. The record reveals a significant decrease in the number of pool-distributing plants operating in the region that provide market access to local producers. Provisions that do not encourage sufficient milk supplies to meet Class I needs may hasten more plant closures, jeopardizing the delicate balance of orderly marketing in the region.

Therefore, given the continued demonstrated need for supplemental supplies in the Appalachian and Southeast orders, this decision finds it appropriate for handlers providing the marketwide service of obtaining supplemental milk to receive adequate transportation cost reimbursement, reflective of current market conditions. Accordingly, this decision continues to propose amendments to the TCBF provisions to reflect current transportation cost factors and increase the assessment rates charged in order to generate funds needed, as described in Proposals 1 and 2.

TCBF provisions using a MRF with a fuel cost adjustor were adopted in 2006 and have not been updated since their adoption. Hearing evidence shows that in the 16 subsequent years, transportation costs have increased and are no longer adequately reflected in the provisions. The three main components that determine a transportation credit payment are: mileage rate factor, reimbursable miles, and eligible milk. This decision continues to propose changes to the mileage rate and reimbursable miles components, as well as the mandatory payment months and maximum assessment rates.

Mileage Rate Factor

The MRF contains five components, four of which this decision continues to recommend be amended: reference diesel fuel price, reference haul cost, reference truck fuel use, and reference load size. The average diesel fuel cost factor was not proposed to be amended in this proceeding and will remain the simple average for the most recent four weeks of diesel prices for the Lower Atlantic and Gulf Coast Districts, as announced by the U.S. Department of Energy, Energy Information Administration.

Reference Diesel Fuel Price

The current transportation credit provisions contain a reference diesel fuel price of $1.42 per gallon, which was adopted in 2006 and represented relatively stable EIA-announced regional diesel fuel prices between October and November 2003 (79 FR 12995). Since that time, the record indicates diesel fuel prices have increased. In the three most recent years (2020–2022), the annual average price of diesel in the Lower Atlantic region was $2.480, $3.174, and $4.920 per gallon.[3] Similar cost increases were also seen in the Gulf Coast region. Proponents advanced a reference diesel fuel price of $2.26 per gallon, representing the EIA average of the two regions during May through early November 2020. EIA-announced diesel fuel prices were relatively stable during this time and correspond to the DCMA-surveyed supplemental hauling costs entered into evidence and used to justify the proposed base haul rate.

This decision continues to propose a reference diesel fuel price of $2.26 per gallon. As the milage rate calculation accounts for current fuel costs through the average fuel cost calculation, it is appropriate to update the reference diesel fuel price to reflect more current marketing conditions. Moreover, as will be discussed, this time period corresponds to the non-fuel related costs that would be reimbursed through the proposed base haul rate.

Reference Haul Cost

Evidence reveals non-fuel costs, such as, but not limited to, purchasing and maintaining equipment, labor, benefits, and overhead, which are represented in the reference haul cost (currently $1.91 per loaded mile), have increased substantially. While monthly variability in diesel fuel prices is captured in the mileage rate factor, changes in non-fuel related costs are not captured and have not been updated since 2006, which was based on 2003 data (79 FR 12985, 12995). The proponents propose increasing the base haul rate to $3.67 per loaded mile. DCMA member costs were entered into the record based on a survey of costs for 2,951 supplemental loads that were charged to its cooperative members from September through October 2020. During that time, the survey average base haul rate per loaded mile was $3.67, representing an average distance of 818 miles and an average load size was 49,700. Several witnesses testified to the increases in transportation costs, a large portion being non-fuel related costs.

Based on record evidence this decision continues to propose a base haul rate of $3.67 per loaded mile. This rate more accurately reflects current costs incurred to deliver supplemental milk to the southeastern region. Ensuring adequate transportation cost relief is appropriate to ensure Class I demand of the region continues to be met.

Reference Truck Fuel Use

The reference truck fuel use assumption (adopted in 2006), which represents the average number of miles traveled per gallon of fuel use in

[3] Official Notice *https://www.eia.gov/petroleum/gasdiesel/.*

transporting milk, is currently 5.5. Record evidence indicates truck fuel economy has improved. Evidence indicates the most current published Department of Transportation combination truck fuel economy data (2019) shows an average MPG fuel use of 6.0478. Proponents entered additional information on fuel economy gains through 2022 to estimate a current fuel economy rate of 6.1770 MPG and proposed a rate of 6.2 MPG. This decision continues to propose a 6.2 MPG fuel consumption rate. This slightly higher rate would result in a lower TCBF payment, promoting efficiencies and discouraging uneconomic movements of milk.

Reference Load Size

The current TCBF reference load size is 48,000 pounds. However, data entered into the record indicates tanker load sizes have increased. DCMA survey data indicate an average load size on supplemental milk supplies was 49,700 pounds. This decision continues to find 49,700 pounds a reasonable reference load size. Slightly higher reference truck fuel use (6.2 MPG) and reference load size (49,700 pounds) assumptions would serve as precautionary measures to decrease the likelihood TCBF payments would be in excess of actual costs incurred.

Reimbursable Miles

Also under consideration in this proceeding is amending the miles eligible to receive a TCBF payment. Currently, the first 85 miles of a supplemental milk shipment is not eligible for a TCBF payment. Proponents seek to change the ineligibility to a percentage basis, 15 percent of the miles shipped, making 85 percent of miles eligible for a TCBF payment. DCMA survey data indicate an average haul on its supplemental milk shipments of 818 miles. Under current TCBF provisions, the first 85 miles did not receive a TCBF payment, meaning those average supplemental loads received payment on 733 miles, or 89.6 percent of miles traveled. A closer haul, for example 409 miles, would receive payment on 324 miles (79 percent of miles traveled). Under the proposed changes, both scenarios would receive payment on 85 percent of miles traveled.

The analysis indicates a flat 85-mile exemption penalizes shorter milk hauls, which should instead be encouraged as the more efficient movement. Moving to a percentage exemption would establish more equitable treatment of long and short hauls, and consequently encourage more efficient supplemental milk deliveries. Therefore, this decision continues to propose a 15 percent mileage exemption, which could be adjusted by the market administrator if requested and found appropriate after an investigation.

Below is an example of the TCBF MRF calculation given the recommended provisions discussed above:

EIA Weekly Retail On-Highway Diesel Fuel Prices [2]

	Lower Atlantic	Gulf Coast
3/27/2023	4.087	3.882
4/3/2023	4.078	3.887
4/10/2023	4.055	3.883
4/17/2023	4.056	3.876

Monthly average diesel fuel price: [3]		$3.976	per gallon.
Reference diesel fuel price:	−	2.260	per gallon.
Fuel price difference: [4]		1.716	per gallon.
Reference truck fuel use:	÷	6.2	miles per gallon.
Fuel cost adjustment factor: [5]		0.277	per loaded mile.
Reference haul cost:	+	3.670	per loaded mile.
Fuel-adjusted haul cost: [6]		3.947	per loaded mile.
Reference load size:	÷	497	cwt.
May 2023 Mileage Rate Factor: [7]		0.00794	dollars per cwt per mile.

[1] As announced on April 19, 2023, with the Announcement of Advanced Class Prices.
[2] Dollars per gallon. Reported every Monday by the Energy Information Administration of the U.S. Department of Energy.
[3] Calculated by rounding down to three decimal places the average of the four most recent weeks of retail on-highway diesel fuel prices for the Lower Atlantic and Gulf Coast EIA regions combined prior to the Advanced Class Price announcement.
[4] Calculated by subtracting the reference diesel fuel price of $2.26 per gallon from the calculated average diesel fuel price for the month.
[5] Calculated by dividing the fuel price difference by 6.2 miles per gallon fuel use and rounding down to three decimal places.
[6] Calculated by adding fuel cost adjustment factor for the month to the reference haul cost of $3.67 per loaded mile.
[7] Calculated by dividing the fuel-adjusted haul cost by the number of hundredweights (cwt's) on the reference load size (49,700 pounds = 497 cwt's) and rounding down to five decimal places.

Payment Months

Testimony was received regarding a proposal to change February from a mandatory to a discretionary TCBF payment month. Under current provisions, TCBF payments are mandatory for the months of January, February, and July through December. Payments may be made for the month of June, if requested by stakeholders and found appropriate by the market administrator to ensure an adequate supply of milk for fluid use. Proponents contend making February a discretionary payment month would allow TCBF monies to be used when supplemental milk supplies are most needed. Data entered into the record demonstrate how payments from the TCBF in the Southeast FMMO often exceed assessments, resulting in payment proration for a significant number of payment months. This decision continues to propose February as a discretionary payment month to allow funds that would have been paid during the month to instead be available to pay in later months, thus lowering the frequency and/or degree of prorated payments. Stakeholders would have the

ability to petition the market administrator to make February a payment month if determined TCBF monies were needed to ensure an adequate Class I supply.

TCBF Assessment Rates

If there are often insufficient funds to pay TCBF claims, the provisions fall short of providing for more orderly milk supplies to meet Class I needs. The maximum allowable TCBF assessment rates in the Appalachian and Southeast FMMOs are $0.15 and $0.30 per cwt, respectively. The assessments are collected every month on Class I pooled milk. Both FMMOs use the same formulas for determining payments.

The record reveals under the current TCBF provisions, the assessments collected in the Southeast FMMO are routinely prorated because of the larger volumes and greater distances supplemental milk travels to supply its Class I demand. The lowest proration in the past 14 years was in October 2022, when Southeast FMMO TCBF payments were prorated to 25.9 percent of claims because of lack of funds, despite the assessment level being set at its maximum, $0.30 per cwt.

Conversely, in the Appalachian FMMO, where in-area production supplies a higher percentage of Class I demand and less supplemental milk is needed, the current assessment level is $0.07 per cwt, which is less than the maximum allowable rate of $0.15 per cwt. This rate has been adequate to make full payment on eligible milk shipments in recent years.

Analysis of the proposed provisions indicate adoption would result in higher payments from the TCBF. The record indicates the assessment levels needed to pay claims based on the proposed TCBF provisions could be as high as $0.18 per cwt and $0.88 per cwt in the Appalachian and Southeast FMMOs, respectively. Therefore, this decision continues to propose an increase in the maximum allowable TCBF assessment rates to ensure adequate funds and reduce the need to prorate payments. Specifically, this decision proposes to adopt a maximum TCBF assessment rates of $0.30 per cwt and $0.60 per cwt in the Appalachian and Southeast FMMOs, respectively. The rates should ensure adequate funds to make full payments on eligible shipments, or lessen the instances of prorated payments, particularly in the regularly short Southeast. There was no opposition at the hearing to the proposed assessments rates; further data supports these maximum rates as reasonable starting points. The market administrator maintains the authority to evaluate collections and lower assessment rates if warranted.

Comments and exceptions submitted by DCMA supported the changes to the TCBF provisions contained in the recommended decision and explained above. A second commentor from Maryland also supported the TCBF amendments. Therefore, this decision makes no changes to the original recommendation.

Distributing Plant Delivery Credits

Promoting efficient, orderly milk movements to make certain Class I demand is met is an objective of the FMMO program. The hearing record details the unique marketing conditions of the southeastern region and the difficulty in obtaining supplies to meet Class I demand. As detailed above, the situation is not new; the region has used transportation assistance provisions for supplemental milk supplies to ensure Class I demand is met for decades. Just as handlers delivering supplemental milk to meet Class I demand provide a marketwide service, the same is true of handlers ensuring regular milk supplies are delivered to Class I plants in the milk deficit southeastern region.

Currently, no provisions within the Appalachian, Florida, or Southeast FMMOs provide transportation assistance for the region's regular supply, even though this supply is a vital piece of meeting Class I demand. As discussed in detail previously, plant closures, the reduction of in-area milk production, and higher transportation costs which have impacted the region's supplemental milk supplies have also impacted its regular milk supplies. Without some transportation cost assistance, the record indicates the milk supply deficit in the region will continue, most likely at an accelerated rate, putting more pressure on supplemental supplies to meet Class I demand. This is not only costly but puts increased pressure and strain on local dairy farmers, as revealed in the hearing record. Finding available supplemental supplies depends on many factors, such as the availability of milk in other markets, driver and truck availability for longer, supplemental hauls, and transportation costs.

Cooperative handler witnesses testified regarding the difficulty of obtaining and maintaining over-order premiums to recoup increased transportation costs. Consequently, as described in the hearing record, cooperative producer-members whose milk is a regular supply to the market are bearing the cost burden of the marketwide service provided by their cooperative through an additional deduction on their milk check.

Both cooperative handlers and independent Class I handlers testified the most efficient deliveries to meet Class I demand are from more local milk supplies. As the FMMOs seek to provide for efficient milk movements, such deliveries should be encouraged. The entire market benefits from ensuring Class I demand is met and the responsibility for bearing the cost should not fall solely to the handlers, primarily cooperative handlers, who provide this marketwide service.

The hearing record clearly demonstrates the unique supply/demand imbalance in the southeast region. Similar market conditions do not exist in the eight FMMOs outside the region. Consequently, the marketing conditions of the southeastern region warrant unique provisions to ensure Class I demand is met.

The record reveals that milk from both within and nearby the marketing areas is considered part of the region's consistent, regular supply. Accordingly, this decision continues to recommend transportation assistance for milk that serves the region's Class I demand year-round basis on the Appalachian, Florida, and Southeast FMMOs. Therefore, this decision continues to propose adoption of Proposals 3 and 5, with slight modification, and Proposal 4.

Comments and exceptions, filed separately by DCMA and Prairie Farms, expressed support for the DPDC as contained in the recommended decision. Their comments mentioned clarification on several items that are discussed below.

There are four main components of the proposed DPDC provisions, which will be addressed below: eligibility, payment rates, assessment levels, and allowance for market administrator discretion. Taken together, these provisions should assist in efficient, more orderly deliveries of year-round Class I milk supplies of the marketing areas.

Proposals 3, 4, and 5, as proposed by DCMA, would allow DPDC payments on milk deliveries from counties where DCMA members procure year-round milk supplies. For the Appalachian FMMO, this would be counties comprising the marketing areas of the Appalachian and Southeast FMMOs, plus specified counties in Virginia and West Virginia. For the Florida FMMO, DPDC eligible milk shipments could come from the counties comprising the Florida FMMO and specified counties in Georgia. In the Southeast FMMO, DPDC eligible milk shipments could

come from the counties comprising the Southeast and Appalachian marketing areas.

As raised by Prairie Farms in testimony and post-hearing brief, there are additional nearby counties from which the cooperative procures year-round Class I milk supplies for the Southeast FMMO that would not be eligible for DPDC payments under the DCMA proposals. While Prairie Farms offered APCs as an alternative, they indicated the DPDC provisions would be acceptable if they were modified to include deliveries from adjacent states.

The record of this proceeding supports extending eligibility to some additional counties to provide equitable transportation cost assistance for milk shipments that are part of the year-round supply. However, the need for equitable treatment must be balanced with preventing milk further from the marketing area from becoming eligible for DPDC payments as it would undermine the transportation assistance the provisions are attempting to provide for local, more efficient milk deliveries.

While this decision continues to recommend elimination of the TCBF 85-mile exemption and moving to a percentage deduction, the record indicates 85 miles has been accepted by the industry as representing the local haul that is the producer's responsibility. Based on evidence in the record, this decision continues to find it reasonable that milk deliveries serving the Class I needs of the Appalachian and Southeast FMMOs from counties within 85 miles of the respective marketing area boundaries be eligible for DPDC payments. The additional counties eligible under this expanded mileage range should increase the producer milk receipts eligible to receive a DPDC payment to include a majority of the year-round milk supplies of the two marketing areas and promote more orderly, efficient marketing of those deliveries.

Under the DPDC provisions originally proposed by DCMA, an analysis indicates approximately 76, 99, and 44 percent of the producer milk receipts delivered to pool plants would be eligible to receive DPDCs in the Appalachian, Florida, and Southeast FMMOs. The DPDC provisions recommended in this decision, including the additional counties for the Appalachian and Southeast FMMOs, would increase the eligible producer milk receipts to 86 and 56 percent, respectively.

Specifically, for the Appalachian FMMO, milk from counties within the Appalachian and Southeast marketing areas, plus specified counties generally within 85 miles of the marketing area boundary would be eligible to receive a DPDC. Therefore, this decision continues to recommend a modified Proposal 3.

Prairie Farms filed a comment in support of using the 85-mile range as appropriate for determining counties located outside the marketing areas that are eligible for DPDCs and an acceptable alternative for their proposed APCs.

Under the modified DPDC, as proposed in this decision, milk eligibility would extend to milk shipments originating from the following counties and cities:

Illinois: Alexander, Bond, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Macon, Marion, Massac, Monroe, Montgomery, Moultrie, Perry, Piatt, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Shelby, Union, Vermilion, Wabash, Washington, Wayne, White, and Williamson.

Indiana: Bartholomew, Boone, Brown, Clay, Clinton, Dearborn, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Lawrence, Madison, Marion, Monroe, Montgomery, Morgan, Ohio, Owen, Parke, Putnam, Randolph, Ripley, Rush, Shelby, Switzerland, Tippecanoe, Tipton, Union, Vermillion, Vigo, Warren, and Wayne.

Kentucky: Boone, Boyd, Bracken, Campbell, Floyd, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Pendleton, Pike, and Robertson.

Maryland: Allegany, Frederick, Garrett, Montgomery, and Washington.

Ohio: Adams, Athens, Brown, Butler, Clark, Clermont, Clinton, Darke, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Lawrence, Madison, Meigs, Miami, Montgomery, Morgan, Perry, Pickaway, Pike, Preble, Ross, Scioto, Vinton, Warren, and Washington.

Pennsylvania: Bedford, Fayette, Franklin, Fulton, Greene, and Somerset.

Virginia counties: Albemarle, Amelia, Appomattox, Arlington, Brunswick, Buckingham, Caroline, Charles City, Charlotte, Chesterfield, Clarke, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Isle Of Wight, James City, King And Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Nelson, New Kent, Northumberland, Nottoway, Orange, Page, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York.

Virginia cities: Alexandria City, Charlottesville City, Chesapeake City, Colonial Heights City, Emporia City, Fairfax City, Falls Church City, Franklin City, Fredericksburg City, Hampton City, Hopewell City, Manassas City, Manassas Park City, Newport News City, Norfolk City, Petersburg City, Poquoson City, Portsmouth City, Richmond City, Suffolk City, Virginia Beach City, Williamsburg City, and Winchester City.

West Virginia: Barbour, Berkeley, Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Mason, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming.

For the Southeast FMMO, milk from counties within the Southeast and Appalachian marketing areas, plus specified counties generally within 85 miles of the marketing area boundary would be eligible to receive a DPDC. Therefore, this decision continues to recommend a modified Proposal 5 to extend eligibility to milk shipments originating from the following counties and cities:

Illinois: Alexander, Bond, Clay, Clinton, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Montgomery, Perry, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Union, Washington, Wayne, White, Williamson, Calhoun, Greene, Jersey, Macoupin, Madison, and Wabash.

Kansas: Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Douglas, Elk, Franklin, Greenwood, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyon, Miami, Montgomery, Neosho, Osage, Shawnee, Wabaunsee, Wilson, Woodson, and Wyandotte.

Missouri: Audrain, Bates, Benton, Boone, Callaway, Camden, Cass, Clay, Cole, Cooper, Franklin, Gasconade, Henry, Hickory, Howard, Jackson, Jefferson, Johnson, Lafayette, Lincoln, Maries, Miller, Moniteau, Montgomery, Morgan, Osage, Pettis, Phelps, Pike, Platte, Pulaski, Ray, St Charles, St Clair,

Ste Genevieve, St Louis, St. Louis City, Saline, and Warren.

Oklahoma: Adair, Atoka, Bryan, Cherokee, Choctaw, Coal, Craig, Creek, Delaware, Haskell, Hughes, Latimer, Le Flore, McCurtain, Mcintosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Sequoyah, Tulsa, Wagoner, and Washington.

Texas: Anderson, Angelina, Bowie, Camp, Cass, Chambers, Cherokee, Delta, Fannin, Franklin, Galveston, Gregg, Hardin, Harris, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Lamar, Liberty, Marion, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, and Wood.

The record does not reflect there are additional counties that supply year-round Class I milk to the Florida marketing area, other than the Georgia counties DCMA proposed be included. Therefore, this decision continues to propose adoption of Proposal 4 without modification.

This decision also continues to recommend that handlers and cooperatives sourcing year-round milk supplies to meet Class I needs from additional counties in the states listed above could request eligibility for DPDC. If the market administrator finds those counties provide milk to the Class I market on a year-round basis, they would be eligible to receive a DPDC. Accounting for the eligibility expansion to the counties listed above and providing flexibility for additional counties within those states to be eligible, if requested and approved, should address the objections presented by Prairie Farms at the hearing.

DCMA witnesses testified that it was not the intention of its proposals to allow the milk outside the marketing area that is eligible for the DPDC to also receive payment from the TCBF. This decision continues to recommend limitations in the eligibility requirements for the TCBF so producer milk originating from the counties listed above that are outside of the Appalachian and Southeast FMMO are only eligible to receive either a DPDC or TCBF payment.

Proposals 3, 4 and 5 also contain a provision allowing milk shipments from pool supply plants to pool distributing plants to be eligible for DPDC payments. The record reflects that a pool supply plant on the Appalachian order assembles milk from smaller farms at the plant and then ships the assembled larger tanker load of milk to pool distributing plants regulated by the order. This supply plant provides milk shipments to meet the demands of the Appalachian order's pool distributing plants and should be eligible for a DPDC for the transportation cost incurred between the two plants. While testimony was only offered regarding a pool supply plant on the Appalachian FMMO, the DCMA proposals contain the same provision for the Southeast and Florida FMMOs. As this decision seeks to provide transportation assistance to handlers providing the marketwide service of meeting Class I demand in all three FMMOs, it is appropriate to allow these deliveries from pool supply plants to pool distributing plants to be eligible for DPDC payments.

In DCMA's comments and exceptions, filed in response to the recommended decision, DCMA requested clarification of eligibility for TCBF and DPDC payments for the additional counties included in the recommended decision. DCMA sought clarification on whether deliveries from a farm in one of the listed counties outside of the marketing areas are eligible for both TCBF and DPDC payments in a given year if all other eligibility criteria are met. If a farm is eligible for both credits, DCMA inquired as to who determines which credit applies. Additionally, DCMA sought guidance on situations in which farms could be eligible for both credits in different FMMOs.

Similarly, comments and exceptions filed by Prairie Farms requested clarification as to whether a producer located in the listed counties outside the Southeast and Appalachian FMMOs would be eligible for a TCBF payment and a DPDC in the same months, but not for both credits on the same milk.

The current TCBF provisions in the Appalachian and Southeast FMMOs have a qualifying period each year during the months of March, April, and May. The language in 1005.82(c)(2)(i) and 1007.82(c)(2)(i) outline the requirements for a dairy farmer to qualify as a supplemental supplier and thus be eligible for payments from the TCBF in each respective FMMO. To be eligible for a TCBF payment, the dairy farmer must not be a producer under the order for more than 45 days during the three-month qualifying period *or* not more than 50 percent of the production of the dairy farmer can be producer milk under the Order during the three-month period. The producer milk of a producer located in a county eligible for a DPDC outside of the Appalachian and Southeast FMMO marketing areas would be eligible for the current TCBF if the producer meets the above requirements. If the producer fails to meet the requirements for TCBF eligibility (*e.g.,* more than 50 percent production is producer milk in either the Appalachian or Southeast Order), then the producer's milk would be eligible for payment from the DPDC from the respective order.

The qualification for payment from the DPDC in each individual FMMO stands on its own. Therefore, a producer located in a county eligible for the Appalachian and Southeast FMMO DPDCs and located outside of the marketing areas could receive payments from both DPDC funds on different milk shipments.

In its comment, DCMA also requested clarification on the location of a supply plant for DPDC eligibility, including for farms and supply plants in the additional counties included in the recommended decision. The recommended decision proposed order language specified that only milk transferred from a pool supply plant regulated on that specific FMMO may be eligible for a DPDC. The pool supply plant provisions in each of the three FMMOs (§§ 1005.7(c) and (d), §§ 1006.7(c) and (d), and §§ 1007.7(c) and (d)) specify the eligibility requirements to qualify as a supply plant in each order. The inclusion of the additional counties located outside of the marketing areas for DPDC eligibility has no impact on pool supply plant qualifications. Producer milk must be physically received at the pool supply plant then transferred to a pool distributing plant to be eligible for DPDC payment. The location of producers would have no impact on the plant's eligibility unless the market administrator determines such transactions are encouraging uneconomic movements of milk.

This decision also slightly amends the computation of DPDC eligible miles. The recommended order language contained in the recommended decision determines eligible milk as the distance between the shipping farm and the receiving plant. Upon further review, this decision finds it more appropriate to lessen the administrative burden by using the distance between the county seat and the receiving plant to determine eligible milk. A DCMA witness testified at the hearing that using either the farm location or the county seat would be appropriate. The proposed order language has been modified to reflect this change.

Similar to the recommended TCBF provisions, this decision continues to recommend DPDCs provide reimbursement on 85 percent of the

delivery mileage. The proposed regulations would allow the market administrator to adjust the mileage range to between 75 and 95 percent if requested by stakeholders and warranted by market conditions. Such an adjustment could be warranted, for example, if the combination of Class I differential adjustments and DPDC payments were found to be reimbursing in excess of transportation costs. Granting the market administrator authority to adjust the mileage rate would provide a safeguard against payments in excess of costs.

This decision continues to propose adoption of DPDC payment rates identical to the TCBF, which have been detailed above. The record indicates the similarity in transportation cost factors between supplemental and year-round supplies. Therefore, this decision continues to find it appropriate to recommend identical payment provisions.

The record contains information regarding the funding needed to make DPDC payments on eligible year-round milk supplies. Establishing maximum assessment rates and allowing the market administrator flexibility to lower those rates is an efficient way to administer the provisions, as has been demonstrated in the administration of the current Appalachian TCBF. As such, this decision continues to propose to adopt DPDC maximum assessments of $0.60, $0.85, and $0.50 per cwt, in the Appalachian, Florida, and Southeast FMMOs, respectively.

In its comments and exceptions, Prairie Farms requested the initial assessment rate be set at the maximum of $0.60 rather than an initial assessment rate of $0.55, as proposed in the recommended decision for the Southeast FMMO. In contrast, DCMA supported the initial assessment rate in the recommended decision in its comments to the recommended decision.

After evaluating the record evidence, this decision finds the expanded area eligible for the DPDC from DCMA's original proposal will likely increase the volume of eligible milk. Thus, a higher assessment rate may be needed initially to cover eligible claims, especially in the Southeast FMMO where milk deficits are more pronounced. To provide consistency between the DPDC provisions of the three orders, the assessment rate should be set at the maximum level for the first month. Accordingly, this decision recommends the initial assessment rate for the DPDC be increased to the maximum rate for all three FMMOs. The initial assessment rates are therefore removed from the proposed order language.

Included in its comment, DCMA requested DPDC assessment rates be announced and published monthly by the market administrator in the same manner and schedule as the TCBF. AMS agrees with this request. The assessments for both the DPDC and TCBF will be specified on the monthly price announcements released by the market administrator.

In its comment, DCMA additionally filed a request to correct § 1006.84(f)(1)(iv) to be consistent with Appalachian and Southeast FMMO proposed provisions, specifically replacing ''the difference'' with ''any positive difference'' in the recommended provisions of the Florida DPDC. AMS agrees this discrepancy was an error; accordingly, AMS is making the corresponding correction to section 1006.84(f)(1)(iv) in this final decision.

Finally, this decision continues to propose inclusion of DPDC provisions to authorize the market administrator to monitor milk movements and DPDC claims to disqualify shipments from eligibility if, after an investigation, it was determined the shipments indicate persistent and pervasive uneconomic milk movements. Uneconomic milk movements run counter to the program's objectives to provide for more orderly marketing and encourage efficient milk movements. Such movements should be discouraged and should not receive the benefit of transportation cost assistance offered through DPDCs. Therefore, this decision continues to recommend the proposed oversight provisions.

In summary, the chronic milk supply problem in the Appalachian, Florida, and Southeast orders is well documented and this decision continues to recommend adoption of a series of amendments and new provisions to provide transportation assistance to handlers who provide the marketwide service of meeting the markets' Class I demand. Through these recommendations, most milk delivered to a pool distributing plant (both supplemental and year-round supplies) would be eligible for one type of transportation payment. This decision does not support adoption of Proposal 9 and 10 that would remove the location and delivery eligibility requirements of the current TCBF provisions, thus making milk eligible to receive both credits. Accordingly, Proposals 9 and 10 are not recommended for adoption.

This decision does not recommend adoption of Proposal 11 which would prohibit diversions on milk receiving any form of transportation assistance from the Appalachian, Florida, and Southeast FMMOs. The Appalachian and Southeast FMMOs already contain this prohibition on milk receiving TCBF payments. This rulemaking is considering whether to extend the prohibition to milk receiving DPDCs.

The record indicates that while a vast majority of the milk regulated by the three Southeastern FMMOs is delivered to pool plants, there are instances, even given the region's chronic milk shortage, when milk is not needed by pool distributing plants and is instead delivered to nonpool plants. Witnesses for cooperatives who would be eligible to receive DPDC payments testified that the ability to pool diversions provides for the orderly disposition of year-round milk supplies regulated by the Orders.

The record reveals that pool distributing plants' demand fluctuates on a weekly, monthly, and annual basis for many reasons, such as weekends, holidays, or the closing of schools for the summer. Previous FMMO rulemakings that have amended or established diversion limits discuss the appropriateness of allowing for the milk of producers who are consistent and reliable suppliers serving the Class I needs of the market to be pooled and priced even when that milk is not immediately needed for Class I use. FMMOs allow milk diverted to nonpool plants to be pooled and priced by the Order, to ensure its orderly and efficient disposition.

By design, the recommended DPDC provisions establish criteria for identifying consistent, year-round milk supplies eligible to receive a payment. This decision has discussed at length the need for transportation assistance in the region to ensure an adequate supply of Class I milk. Diversion limits are one feature that provides for the orderly disposition of this consistent supply of Class I milk. Prohibiting the diversion of milk receiving a DPDC would not provide for more orderly marketing and would interfere with the orderly disposition of the region's consistent Class I milk supplies. Accordingly, this decision does not recommend adoption of Proposal 11.

This decision does not find that adoption of Proposals 1, 2, 3, 4 and 5 would have a negative competitive impact on pool distributing plant handlers in the three Southeastern Orders. If adopted, the proposed maximum assessment rates for the TCBF and DPDC combined would be $0.90, $0.85, and $1.10 per cwt, in the Appalachian, Florida, and Southeast FMMOs, respectively. These rates reflect correction of a clerical error in the recommended decision where the Florida and Southeast FMMO rates were

listed incorrectly. Evidence shows packaged milk coming into the region from common supply points would incur costs—a combination of applicable Class I differentials and transportation costs—in excess of the combined TCBF and DPDC assessments on Class I milk. Thus, adoption of the maximum assessment rates would not impact competitive relationships among handlers who supply the region with fluid milk products.

To compare how the proposed assessments could impact the wholesale price of milk used in Class I products, the proposed change in assessment levels was analyzed. The difference in current assessment levels and the maximum assessment levels proposed in this decision is $0.83, $0.85, and $0.80 per cwt, in the Appalachian, Florida, and Southeast FMMOs, respectively. The differences per cwt converted to gallons are $0.071, $0.073, and $0.069 per cwt, in the Appalachian, Florida, and Southeast FMMOs, respectively. These assessment level and per gallon differences reflect correction of a clerical error in the recommended decision. The extent to which the increased Class I assessments would pass through to retail milk prices is unknown. Compared to average regional retail prices for conventional whole milk in 2022, retail prices would increase by 1 to 3 percent if the total increase were fully passed through.

Some witness testimony and post-hearing briefs argued that because of declining fluid milk sales, FMMOs should not be amended in a way that would raise consumer prices. While impact on consumers is important to consider, it must be balanced with the reality that supplying the southeastern U.S. with milk to meet consumer Class I demand is costly. This record details how transportation costs have increased and handlers and cooperatives supplying the Class I market have been unable to recoup those costs in the marketplace. FMMOs are not providing for orderly marketing if supplies of the Class I market—in this case cooperatives who supply more than 80 percent of the region's milk—are asked to continue to serve the Class I market without any practical way to cover costs of moving milk to service the Class I market. Such a chronic situation, as documented by this hearing record, does not serve producers or consumers, if in the long run cooperative producers no longer service the Class I market and consumers are ultimately faced with increased costs due to the necessity of out-of-area milk being hauled longer distances to supply fluid milk in the grocery store.

Emergency Procedures

DCMA requested this rulemaking be conducted on an emergency basis, warranting omission of a recommended decision. Numerous witnesses testified regarding why the unique marketing conditions of the southeastern region, necessitating supplemental milk supplies from further distances in order to fill the gap between the region's increasing Class I demand and declining in-area milk production, are cause for emergency rulemaking measures. As discussed previously this decision, the record indicates transportation costs for Class I milk deliveries in the southeastern region of the U.S. have risen significantly and are being borne primarily by the cooperatives that supply the market.

The overarching issue in this proceeding is determining what combination of current and possibly new transportation assistance provisions would best address the chronic milk deficit problem in the region. In doing so, this decision continues to recommend modifications to the current TCBF provisions of the Appalachian and Southeast FMMOs to reflect the current transportation cost conditions for supplemental Class I milk deliveries into the marketing areas. This decision also finds it appropriate to establish new DPDCs in the Appalachian, Florida, and Southeast FMMOs to provide transportation cost assistance for milk deliveries within and nearby the marketing areas. In making this recommendation, the decision continues to recommend modifications to what was originally proposed by DCMA. The decision also denies adoption of four alternative proposals submitted by industry stakeholders.

Rulings on Proposed Findings and Conclusions

Briefs, proposed findings, and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the claims to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Appalachian, Florida, and Southeast orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the aforenamed marketing agreements and orders:

a. The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

b. The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable with respect to the price of feeds, available supplies of feeds, and other economic conditions that affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreements and the orders are such prices as will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

c. The proposed marketing agreements and the orders will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held.

d. All milk and milk products handled by handlers, as defined in the marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Recommended Marketing Agreements and Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following orders regulating the handling of milk in Appalachian, Florida, and Southeast marketing areas continue to be recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

Determination of Producer Approval and Representative Period

March 2023 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended the transportation credit balancing fund provisions for the Appalachian and Southeast Federal milk marketing

orders, and establishment of distributing plant delivery credits in the Appalachian, Florida, and Southeast Federal milk marketing orders, is approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1005, 1006, and 1007

Milk marketing orders.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

Order Amending the Order Regulating the Handling of Milk in the Appalachian, Florida, and Southeast Marketing Areas

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the marketing agreement and to the orders regulating the handling of milk in the Appalachian, Florida, and Southeast marketing areas. The hearing was held pursuant to the provisions of the AMAA, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is determined that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the AMAA;

(2) The parity prices of milk, as determined pursuant to section 2 of the AMAA, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Appalachian, Florida, and Southeast marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

PART 1005—MILK IN THE APPALACHIAN MARKETING AREA

■ 1. The authority citation for part 1005 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 2. Amend § 1005.30 by:
■ a. Redesignating paragraphs (a)(5) through (9) as paragraphs (a)(7) through (11);
■ b. Adding new paragraphs (a)(5) and (6);
■ c. Redesignating paragraph (c)(3) as (c)(4) and revising it; and
■ d. Adding new paragraph (c)(3).

The additions and revision read as follows:

§ 1005.30 Reports of receipts and utilization.

(a) * * *

(5) Receipts of producer milk described in § 1005.84(e), including the identity of the individual producers whose milk is eligible for the distributing plant delivery credit pursuant to that paragraph and the date that such milk was received;

(6) For handlers submitting distributing plant delivery credit requests, transfers of bulk unconcentrated milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a distributing plant delivery credit pursuant to § 1005.84, all of the information required in paragraphs (a)(5) and (6) of this section.

(4) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraphs (a)(7) through (9) of this section.

* * * * *

■ 3. Amend § 1005.32 by revising paragraph (a) to read as follows:

§ 1005.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) of this chapter shall report to the market administrator any adjustments to distributing plant delivery credit requests as reported pursuant to § 1005.30(a)(5) and (6), and any adjustments to transportation credit requests as reported pursuant to § 1005.30(a)(7) through (9).

* * * * *

■ 4. Amend § 1005.81 by revising the first sentence of paragraph (a) to read as follows:

§ 1005.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month (except as provided in § 1000.90 of this chapter), each handler operating a pool plant and each handler specified in § 1000.9(c) of this chapter shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1005.44 by $0.30 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–February period. * * *

* * * * *

■ 5. Amend § 1005.82 by:
■ a. Revising the first sentence of paragraph (a)(1), the first sentence of paragraph (b), and paragraph (d)(3)(iii); and
■ b. Adding paragraph (d)(3)(viii).

The revisions and addition read as follows:

§ 1005.82 Payments from the transportation credit balancing fund.

(a) * * *

(1) On or before the 13th day (except as provided in § 1000.90 of this chapter) after the end of each of the months of January and July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1005.30(a)(7), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported

pursuant to § 1005.30(a)(8), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. * * *

* * * * *

(b) The market administrator may extend the period during which transportation credits are in effect (*i.e.,* the transportation credit period) to the month of February or June if a written request to do so is received fifteen (15) days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. * * *

* * * * *

(d) * * *

(3) * * *

(iii) Subtract 15 percent (15%) of the miles from the mileage so determined;

* * * * *

(viii) The market administrator may revise the factor described in paragraph (d)(3)(iii) of this section (the mileage adjustment factor) if a written request to do so is received fifteen (15) days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such revision is necessary to assure orderly marketing, efficient handling of milk in the marketing area, and an adequate supply of milk for fluid use. The market administrator may increase the mileage adjustment factor by as much as ten percentage points, up to twenty-five percent (25%) or decrease it by as much as ten percentage points, to a minimum of five percent (5%). Before making such a finding, the market administrator shall notify all handlers in the market that a revision is being considered and invite written data, comments, and arguments. Any decision to revise the mileage rate factor must be issued in writing prior to the first day of the month for which the revision is to be effective.

■ 6. Amend § 1005.83 by revising paragraphs (a)(2) through (5) to read as follows:

§ 1005.83 Mileage rate for the transportation credit balancing fund.

(a) * * *

(2) From the result in paragraph (a)(1) in this section subtract $2.26 per gallon;

(3) Divide the result in paragraph (a)(2) of this section by 6.2, and round down to three decimal places to compute the fuel cost adjustment factor;

(4) Add the result in paragraph (a)(3) of this section to $3.67;

(5) Divide the result in paragraph (a)(4) of this section by 497;

* * * * *

■ 7. Add § 1005.84 before the undesignated center heading ''Administrative Assessment and Marketing Service Deduction'' to read as follows:

§ 1005.84 Distributing plant delivery credits.

(a) *Distributing plant delivery credit fund.* The market administrator shall maintain a separate fund known as the Distributing Plant Delivery Credit Fund into which shall be deposited the payments made by handlers pursuant to paragraph (b) of this section and out of which shall be made the payments due handlers pursuant to paragraph (d) of this section. Payments due a handler shall be offset against payments due from the handler.

(b) *Payments to the distributing plant delivery credit fund.* On or before the 12th day after the end of the month (except as provided in § 1000.90 of this chapter), each handler operating a pool plant and each handler specified in § 1000.9(c) of this chapter shall pay to the market administrator a distributing plant delivery credit fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1005.44 by a per hundredweight assessment rate of $0.60 or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total distributing plant delivery credit disbursed during the prior calendar year. If the distributing plant delivery credit fund is in an overfunded position, the market administrator may completely waive the distributing plant delivery credit assessment for one or more months. In determining the distributing plant delivery credit assessment rate, in the event that during any month of that previous calendar year the fund balance was insufficient to cover the amount of credits that were due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(c) *Assessment rate announcement.* The market administrator shall announce publicly on or before the 23rd day of the month (except as provided in § 1000.90 of this chapter), the assessment rate per hundredweight pursuant to paragraph (b) of this section for the following month.

(d) *Payments from the distributing plant delivery credit fund.* Payments from the distributing plant delivery credit fund to handlers and cooperative associations requesting distributing plant delivery credits shall be made as follows:

(1) On or before the 13th day (except as provided in § 1000.90 of this chapter) after the end of each month, the market administrator shall pay to each handler that received, and reported pursuant to § 1005.30(a)(5), bulk unconcentrated milk directly from producers' farms, or receipts of bulk unconcentrated milk by transfer from a pool supply plant as defined in § 1005.7(c) or (d), a preliminary amount determined pursuant to paragraph (f) of this section to the extent that funds are available in the distributing plant delivery credit fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the distributing plant delivery credit fund by reducing payments pro rata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (d)(3) of this section.

(2) The market administrator shall accept adjusted requests for distributing plant delivery credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1005.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of distributing plant delivery credit payments for the preceding month pursuant to the process provided in paragraph (d)(1) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the distributing plant delivery credit fund will be made on or before the next payment date for the following month.

(3) Distributing plant delivery credits paid pursuant to paragraphs (d)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77 of this chapter. Adjusted payments to or from the distributing plant delivery credit fund will remain subject to the final proration established pursuant to paragraph (d)(2) of this section.

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1005.30(c)(3) prior to the date payment is due, the distributing plant delivery

credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(5) The market administrator shall provide monthly, to producers who are not members of a qualified cooperative association, a statement of the amount per hundredweight of distributing plant delivery credit which the distributing plant handler receiving their milk is entitled to claim.

(e) *Eligible milk.* Distributing plant delivery credits shall apply to the following milk:

(1) Bulk unconcentrated fluid milk received directly from dairy farms at a pool distributing plant as producer milk subject to the following conditions:

(i) The farm on which the milk was produced is located within the specified marketing areas of the order in this part or the marketing area of Federal Order 1007 (7 CFR part 1007).

(ii) The farm on which the milk was produced is located in the following counties:

(A) *Illinois:* Alexander, Bond, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Macon, Marion, Massac, Monroe, Montgomery, Moultrie, Perry, Piatt, Pope, Pulaski, Randolph, Richland, St Clair, Saline, Shelby, Union, Vermilion, Wabash, Washington, Wayne, White, and Williamson.

(B) *Indiana:* Bartholomew, Boone, Brown, Clay, Clinton, Dearborn, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Lawrence, Madison, Marion, Monroe, Montgomery, Morgan, Ohio, Owen, Parke, Putnam, Randolph, Ripley, Rush, Shelby, Switzerland, Tippecanoe, Tipton, Union, Vermillion, Vigo, Warren, and Wayne.

(C) *Kentucky:* Boone, Boyd, Bracken, Campbell, Floyd, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Pendleton, Pike, and Robertson.

(D) *Maryland:* Allegany, Frederick, Garrett, Montgomery, and Washington.

(E) *Ohio:* Adams, Athens, Brown, Butler, Clark, Clermont, Clinton, Darke, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Lawrence, Madison, Meigs, Miami, Montgomery, Morgan, Perry, Pickaway, Pike, Preble, Ross, Scioto, Vinton, Warren, Washington.

(F) *Pennsylvania:* Bedford, Fayette, Franklin, Fulton, Greene, and Somerset.

(G) *Virginia counties:* Albemarle, Amelia, Appomattox, Arlington, Brunswick, Buckingham, Caroline, Charles City, Charlotte, Chesterfield, Clarke, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Isle Of Wight, James City, King And Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Nelson, New Kent, Northumberland, Nottoway, Orange, Page, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, York.

(H) *Virginia cities:* Alexandria City, Charlottesville City, Chesapeake City, Colonial Heights City, Emporia City, Fairfax City, Falls Church City, Franklin City, Fredericksburg City, Hampton City, Hopewell City, Manassas City, Manassas Park City, Newport News City, Norfolk City, Petersburg City, Poquoson City, Portsmouth City, Richmond City, Suffolk City, Virginia Beach City, Williamsburg City, and Winchester City.

(I) *West Virginia:* Barbour, Berkeley, Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Mason, Mineral, Mingo, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming.

(iii) The market administrator may include additional counties from the states listed in paragraph (e)(1)(ii) of this section upon the request of a pool handler and provision of satisfactory proof that the county is a source of regular supply of milk to order distributing plants.

(iv) Producer milk eligible for a payment under this section cannot be eligible for payment from the transportation credit balancing fund as specified in § 1005.82(c)(2).

(v) The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as producer milk was received at such plant for which a distributing plant delivery credit is requested.

(2) Bulk unconcentrated fluid milk transferred from a pool plant regulated pursuant to § 1005.7(c) or (d) to a pool distributing plant regulated pursuant to § 1005.7(a) or (b). The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as milk was received by transfer from a pool supply plant at such pool distributing plant for which a distributing plant delivery credit is requested.

(f) *Credit computation.* Distributing plant delivery credits shall be computed as follows:

(1) With respect to milk delivered directly from the farm to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the shipping farm's county seat and the receiving plant and multiply the miles by an adjustment rate of not greater than ninety-five percent (95%) and not less than seventy-five percent (75%);

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the county in which the shipping farm is located from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in paragraph (f)(1)(i) of this section by the monthly mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(1)(ii) of this section from the rate determined in paragraph (f)(1)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(1)(iv) of this section by the hundredweight of milk described in paragraph (e)(1) of this section.

(2) With respect to milk delivered from a pool supply plant to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the transferring pool plant and the receiving plant, and multiply the miles by an adjustment rate not greater than ninety-five percent (95%) and not less than seventy-five percent (75%);

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the transferring pool plant from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in paragraph (f)(2)(i) of this section by the mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(2)(ii) of this section from the rate determined in paragraph (f)(2)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(2)(iv) of this section by the hundredweight of milk described in paragraph (e)(2) of this section.

(g) *Mileage percentage rate adjustment.* The monthly percentage rate adjustment within the range of permissible percentage adjustments provided in paragraphs (f)(1)(i) and (f)(2)(i) of this section shall be determined by the market administrator, and publicly announced prior to the month for which effective. In determining the percentage adjustment to the actual mileages of milk delivered from farms and milk transferred from pool plants the market administrator shall evaluate the general supply and demand for milk in the marketing area, any previous occurrences of sustained uneconomic movements of milk, and the balances in the distributing plant delivery credit fund. The adjustment percentage pursuant to paragraphs (f)(1)(i) and (f)(2)(i) of this section to the actual miles used for computing distributing plant delivery credits and announced by the market administrator shall always be the same percentage.

(h) *Mileage rate for the distributing plant delivery credit fund.* The mileage rate for the distributing plant delivery credit fund shall be the mileage rate computed by the market administrator pursuant to § 1005.83.

(i) *Oversight of milk movements.* The market administrator shall regularly monitor and evaluate the requests for distributing plant delivery credits to determine that such credits are not encouraging uneconomic movements of milk, and that the credits continue to assure orderly marketing and efficient handling of milk in the marketing area. In making such determinations, the market administrator will include in the evaluation the general supply and demand for milk. If the market administrator finds that uneconomic movements are occurring, and such movements are persistent and pervasive, or are not being made in a way that assures orderly marketing and efficient handling of milk in the marketing area, after good cause shown, the market administrator may disallow the payments of distributing plant delivery credit on such milk. Before making such a finding, the market administrator shall give the handler of such milk sufficient notice that an investigation is being considered and shall provide notice that the handler has the opportunity to explain why such movements were necessary, or the opportunity to correct such movements prior to the disallowance of any distributing plant delivery credits. Any disallowance of distributing plant delivery credit pursuant to this provision shall remain confidential between the market administrator and the handler.

PART 1006—MILK IN THE FLORIDA MARKETING AREA

■ 8. The authority citation for part 1006 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 9. Amend § 1006.30 by:

■ a. Redesignating paragraphs (a)(5) and (6) as (a)(7) and (8);

■ b. Adding new paragraphs (a)(5) and (6); and

■ c. Adding paragraph (c)(3).

The additions read as follows:

§ 1006.30 Reports of receipts and utilization.

(a) * * *

(5) Receipts of producer milk described in § 1006.84(e), including the identity of the individual producers whose milk is eligible for the distributing plant delivery credit pursuant to that paragraph and the date that such milk was received;

(6) For handlers submitting distributing plant delivery credit requests, transfers of bulk unconcentrated milk to nonpool plants, including the dates that such milk was transferred.

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a distributing plant delivery credit pursuant to § 1006.84, all of the information required in paragraphs (a)(5) and (6) of this section.

* * * * *

■ 10. Revise § 1006.32 to read as follows:

§ 1006.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) of this chapter shall report to the market administrator any adjustments to distributing plant delivery credit requests as reported pursuant to § 1006.30(a)(5) and (6).

(b) In addition to the reports required pursuant to §§ 1006.30 and 1006.31 and paragraph (a) of this section, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

■ 11. Add an undesignated center heading preceding the undesignated center heading ''Administrative Assessment and Marketing Service Deduction'' to read as follows:

Marketwide Service Payments.

■ 12. Add § 1006.84 preceding the undesignated center heading ''Administrative Assessment and Marketing Service Deduction'' to read as follows:

§ 1006.84 Distributing plant delivery credits.

(a) *Distributing plant delivery credit fund.* The market administrator shall maintain a separate fund known as the Distributing Plant Delivery Credit Fund into which shall be deposited the payments made by handlers pursuant to paragraph (b) of this section and out of which shall be made the payments due handlers pursuant to § 1005.84(b) of this chapter. Payments due a handler shall be offset against payments due from the handler.

(b) *Payments to the distributing plant delivery credit fund.* On or before the 12th day after the end of the month (except as provided in § 1000.90 of this chapter), each handler operating a pool plant and each handler specified in § 1000.9(c) of this chapter shall pay to the market administrator a distributing plant delivery credit fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1006.44 by a per hundredweight assessment rate of $0.85 or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total distributing plant delivery credit disbursed during the prior calendar year. If the distributing plant delivery credit fund is in an overfunded position, the market administrator may completely waive the distributing plant delivery credit assessment for one or more months. In determining the distributing plant delivery credit assessment rate, in the event that during any month of that previous calendar year the fund balance was insufficient to cover the amount of credits that were due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(c) *Assessment rate announcement.* The market administrator shall announce publicly on or before the 23rd day of the month (except as provided in § 1000.90 of this chapter) the assessment rate per hundredweight pursuant to paragraph (b) of this section for the following month.

(d) *Payments from the distributing plant delivery credit fund.* Payments from the distributing plant delivery credit fund to handlers and cooperative

associations requesting distributing plant delivery credits shall be made as follows:

(1) On or before the 13th day (except as provided in § 1000.90 of this chapter) after the end of each month, the market administrator shall pay to each handler that received, and reported pursuant to § 1006.30(a)(5), bulk unconcentrated milk directly from producers' farms, or receipts of bulk unconcentrated milk by transfer from a pool supply plant as defined in § 1006.7(c) or (d), a preliminary amount determined pursuant to paragraph (f) of this section to the extent that funds are available in the distributing plant delivery credit fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the distributing plant delivery credit fund by reducing payments pro rata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (d)(3) of this section.

(2) The market administrator shall accept adjusted requests for distributing plant delivery credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1006.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of distributing plant delivery credit payments for the preceding month pursuant to the process provided in paragraph (d)(1) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the distributing plant delivery credit fund will be made on or before the next payment date for the following month.

(3) Distributing plant delivery credits paid pursuant to paragraphs (d)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77 of this chapter. Adjusted payments to or from the distributing plant delivery credit fund will remain subject to the final proration established pursuant to paragraph (d)(2) of this section.

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1006.30(c)(3) prior to the date payment is due, the distributing plant delivery credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(5) The market administrator shall provide monthly, to producers who are not members of a qualified cooperative association, a statement of the amount per hundredweight of distributing plant delivery credit which the distributing plant handler receiving their milk is entitled to claim.

(e) *Eligible milk.* Distributing plant delivery credits shall apply to the following milk:

(1) Bulk unconcentrated fluid milk received at a pool distributing plant as producer milk directly from dairy farms located within the marketing area; or located within the Georgia counties of Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brooks, Calhoun, Charlton, Chattahoochee, Clay, Clinch, Coffee, Cook, Colquitt, Crisp, Decatur, Dodge, Dooley, Dougherty, Early, Echols, Grady, Irwin, Lanier, Lee, Lowndes, Jeff Davis, Macon, Marion, Miller, Mitchell, Pierce, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Telfair, Terrel, Thomas, Tift, Turner, Ware, Webster, Wilcox, and Worth, and received at pool distributing plants. The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as producer milk was received at such plant for which a distributing plant delivery credit is requested.

(2) Bulk unconcentrated fluid milk transferred from a pool plant regulated pursuant to § 1006.7(c) or (d) to a pool distributing plant regulated pursuant to § 1006.7(a) or (b). The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as milk was received by transfer from a pool supply plant at such pool distributing plant for which a distributing plant delivery credit is requested.

(f) *Credit computation.* Distributing plant delivery credits shall be computed as follows:

(1) With respect to milk delivered directly from the farm to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the shipping farm's county seat and the receiving plant and multiply the miles by an adjustment rate of not greater than ninety-five percent (95%) and not less than seventy-five percent (75%);

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the county in which the shipping farm is located from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in (f)(1)(i) of this section by the monthly mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(1)(ii) of this section from the rate determined in paragraph (f)(1)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(1(iv) of this section by the hundredweight of milk described in paragraph (e)(1) of this section;

(2) With respect to milk delivered from a pool supply plant to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the transferring pool plant and the receiving plant, and multiply the miles by an adjustment rate of not greater than ninety-five percent (95%) and not less than seventy-five percent (75%);

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the transferring pool plant from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in paragraph (f)(2)(i) of this section by the mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(2)(ii) from the rate determined in paragraph (f)(2)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(2)(iv) of this section by the hundredweight of milk described in paragraph (e)(2) of this section.

(g) *Mileage percentage rate adjustment.* The monthly percentage rate adjustment within the range of permissible percentage adjustments provided in paragraphs (f)(1)(i) and (f)(2)(i) of this section shall be determined by the market administrator, and publicly announced prior to the month for which effective. In determining the percentage adjustment to the actual mileages of milk delivered from farms and milk transferred from pool plants the market administrator shall evaluate the general supply and demand for milk in the marketing area, any previous occurrences of sustained uneconomic movements of milk, and the balances in the distributing plant

delivery credit fund. The adjustment percentage pursuant to paragraphs (f)(1)(i) and (f)(2)(i) to of this section the actual miles used for computing distributing plant credits and announced by the market administrator shall always be the same percentage.

(h) *Mileage rate for the distributing plant delivery credit fund.* The market administrator shall compute a mileage rate factor each month as follows:

(1) Compute the simple average rounded down to three decimal places for the most recent four (4) weeks of the Diesel Price per Gallon as reported by the Energy Information Administration of the United States Department of Energy for the Lower Atlantic and Gulf Coast Districts combined;

(2) From the result in paragraph (h)(1) of this section subtract $2.26 per gallon;

(3) Divide the result in paragraph (h)(2) of this section by 6.2, and round down to three decimal places to compute the fuel cost adjustment factor;

(4) Add the result in paragraph (h)(3) of this section to $3.67;

(5) Divide the result in paragraph (h)(4) of this section by 497;

(6) Round the result in paragraph (h)(5) of this section down to five decimal places to compute the mileage rate.

(i) *Oversight of milk movements.* The market administrator shall regularly monitor and evaluate the requests for distributing plant delivery credits to determine that such credits are not encouraging uneconomic movements of milk, and the credits continue to assure orderly marketing and efficient handling of milk in the marketing area. In making such determinations the market administrator will include in the evaluation the general supply and demands for milk. If the market administrator finds that uneconomic movements are occurring, and such movements are persistent and pervasive, or are not being made in a way that assures orderly marketing and efficient handling of milk in the marketing area, after good cause shown, the market administrator may disallow the payments of distributing plant delivery credit on such milk. Before making such a finding, the market administrator shall give the handler on such milk sufficient notice that an investigation is being considered and shall provide notice that the handler has the opportunity to explain why such movements were necessary, or the opportunity to correct such movements prior to the disallowance of any distributing plant delivery credits. Any disallowance of distributing plant delivery credit pursuant to this provision shall remain confidential between the market administrator and the handler.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

■ 13. The authority citation for part 1007 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 14. Amend § 1007.30 by:
■ a. Redesignating paragraphs (a)(5) through (9) as paragraphs (a)(7) through (11);
■ b. Adding new paragraphs (a)(5) and (6);
■ c. Redesignating paragraph (c)(3) as (c)(4) and revising it; and
■ d. Adding new paragraph (c)(3).

The revisions and additions read as follows.

§ 1007.30 Reports of receipts and utilization.

(a) * * *

(5) Receipts of producer milk described in § 1007.84(e), including the identity of the individual producers whose milk is eligible for the distributing plant delivery credit pursuant to that paragraph and the date that such milk was received;

(6) For handlers submitting distributing plant delivery credit requests, transfers of bulk unconcentrated milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a distributing plant delivery credit pursuant to § 1007.84, all of the information required in paragraphs (a)(5) and (6) of this section.

(4) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraphs (a)(7) through (9) of this section.

* * * * *

■ 15. Amend § 1007.32 by revising paragraph (a) to read as follows:

§ 1007.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) of this chapter shall report to the market administrator any adjustments to distributing plant delivery credit requests as reported pursuant to § 1007.30(a)(5) and (6) and any adjustments to transportation credit requests as reported pursuant to § 1007.30(a)(7) through (9) of this section.

* * * * *

■ 16. Amend § 1007.81 by revising the first sentence of paragraph (a) to read as follows:

§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month (except as provided in § 1000.90 of this chapter), each handler operating a pool plant and each handler specified in § 1000.9(c) of this chapter shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1007.44 by $0.60 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June through February period to reflect any changes in the current mileage rate versus the mileage rate(s) in effect during the prior June through February period. * * *

* * * * *

■ 17. Amend § 1007.82 by:
■ a. Revising the first sentence of paragraph (a)(1), the first sentence of paragraph (b), and paragraph (d)(3)(iii); and
■ b. Adding paragraph (d)(3)(viii).

The revisions and addition read as follows:

§ 1007.82 Payments from the transportation credit balancing fund.

(a) * * *

(1) On or before the 13th day (except as provided in § 1000.90) after the end of each of the months of January, and July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(7), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1007.30(a)(8), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. * * *

(b) The market administrator may extend the period during which transportation credits are in effect (*i.e.,* the transportation credit period) to the month of February or June if a written request to do so is received fifteen (15) days prior to the beginning of the month for which the request is made and, after

conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use.

* * *

* * * * *

(d) * * *

(3) * * *

(iii) Subtract 15 percent (15%) of the miles from the mileage so determined;

* * * * *

(viii) The market administrator may revise the factor described in (3)(iii) of this section (the mileage adjustment factor) if a written request to do so is received fifteen (15) days prior to the beginning of the month for which the request is made and, (15) days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such revision is necessary to assure orderly marketing, efficient handling of milk in the marketing area, and an adequate supply of milk for fluid use. The market administrator may increase the mileage adjustment factor by as much as ten percentage points (10%) up to twenty-five percent (25%) or decrease it by as much as ten percentage points (10%), to a minimum of five percent (5%). Before making such a finding, the market administrator shall notify all handlers in the market that a revision is being considered and invite written data, comments, and arguments. Any decision to revise the mileage rate factor must be issued in writing prior to the first day of the month for which the revision is to be effective.

■ 18. Amend § 1007.83 by revising paragraphs (a)(2) through (5) to read as follows:

§ 1007.83 Mileage rate for the transportation credit balancing fund.

(a) * * *

(2) From the result in paragraph (a)(1) of this section subtract $2.26 per gallon;

(3) Divide the result in paragraph (a)(2) of this section by 6.2, and round down to three decimal places to compute the fuel cost adjustment factor;

(4) Add the result in paragraph (a)(3) of this section to $3.67;

(5) Divide the result in paragraph (a)(4) of this section by 497;

* * * * *

■ 19. Add § 1007.84 before the undesignated center heading ''Administrative Assessment and Marketing Service Deduction'' to read as follows:

§ 1007.84 Distributing plant delivery credits.

(a) *Distributing plant delivery credit fund.* The market administrator shall maintain a separate fund known as the Distributing Plant Delivery Credit Fund into which shall be deposited the payments made by handlers pursuant to paragraph (b) of this section and out of which shall be made the payments due handlers pursuant to paragraph (d) of this section. Payments due a handler shall be offset against payments due from the handler.

(b) *Payments to the distributing plant delivery credit fund.* On or before the 12th day after the end of the month (except as provided in § 1000.90 of this chapter), each handler operating a pool plant and each handler specified in § 1000.9(c) of this chapter shall pay to the market administrator a distributing plant delivery credit fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1007.44 by a per hundredweight assessment rate of $0.50 or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total distributing plant delivery credit disbursed during the prior calendar year. If the distributing plant delivery credit fund is in an overfunded position, the market administrator may completely waive the distributing plant delivery credit assessment for one or more months. In determining the distributing plant delivery credit assessment rate, in the event that during any month of that previous calendar year the fund balance was insufficient to cover the amount of credits that were due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(c) *Assessment rate announcement.* The market administrator shall announce publicly on or before the 23rd day of the month (except as provided in § 1000.90 of this chapter), the assessment rate per hundredweight pursuant to paragraph (b) of this section for the following month.

(d) *Payments from the distributing plant delivery credit fund.* Payments from the distributing plant delivery credit fund to handlers and cooperative associations requesting distributing plant delivery credits shall be made as follows:

(1) On or before the 13th day (except as provided in § 1000.90 of this chapter) after the end of each month, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(5), bulk unconcentrated milk directly from producers' farms, or receipts of bulk unconcentrated milk by transfer from a pool supply plant as defined in § 1007.7(c) or (d), a preliminary amount determined pursuant to paragraph (f) of this section to the extent that funds are available in the distributing plant delivery credit fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the distributing plant delivery credit fund by reducing payments pro rata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (d)(3) of this section.

(2) The market administrator shall accept adjusted requests for distributing plant delivery credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1007.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of distributing plant delivery credit payments for the preceding month pursuant to the process provided in paragraph (d)(1) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the distributing plant delivery credit fund will be made on or before the next payment date for the following month.

(3) Distributing plant delivery credits paid pursuant to paragraphs (d)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77 of this chapter. Adjusted payments to or from the distributing plant delivery credit fund will remain subject to the final proration established pursuant to paragraph (d)(2) of this section.

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the distributing plant delivery credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(5) The market administrator shall provide monthly to producers who are not members of a qualified cooperative association a statement of the amount per hundredweight of distributing plant delivery credit which the distributing plant handler receiving their milk is entitled to claim.

(e) *Eligible milk.* Distributing plant delivery credits shall apply to the following milk:

(1) Bulk unconcentrated fluid milk received directly from dairy farms at a pool distributing plant as producer milk subject to the following conditions:

(i) The farm on which the milk was produced is located within the specified marketing areas of the order in this part or the marketing area of Federal Order 1005 (7 CFR part 1005).

(ii) The farm on which the milk was produced is located in the following counties in the State of:

(A) *Illinois:* Alexander, Bond, Clay, Clinton, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Monroe, Montgomery, Perry, Pope, Pulaski, Randolph, Richland, St Clair, Saline, Union, Washington, Wayne, White, Williamson, Calhoun, Greene, Jersey, Macoupin, Madison, and Wabash.

(B) *Kansas:* Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Douglas, Elk, Franklin, Greenwood, Jefferson, Johnson, Labette, Leavenworth, Linn, Lyon, Miami, Montgomery, Neosho, Osage, Shawnee, Wabaunsee, Wilson, Woodson, and Wyandotte.

(C) *Missouri:* Audrain, Bates, Benton, Boone, Callaway, Camden, Cass, Clay, Cole, Cooper, Franklin, Gasconade, Henry, Hickory, Howard, Jackson, Jefferson, Johnson, Lafayette, Lincoln, Maries, Miller, Moniteau, Montgomery, Morgan, Osage, Pettis, Phelps, Pike, Platte, Pulaski, Ray, St Charles, St Clair, Ste Genevieve, St Louis, St. Louis City, Saline, and Warren.

(D) *Oklahoma:* Adair, Atoka, Bryan, Cherokee, Choctaw, Coal, Craig, Creek, Delaware, Haskell, Hughes, Latimer, Le Flore, McCurtain, Mcintosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Sequoyah, Tulsa, Wagoner, and Washington.

(E) *Texas:* Anderson, Angelina, Bowie, Camp, Cass, Chambers, Cherokee, Delta, Fannin, Franklin, Galveston, Gregg, Hardin, Harris, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Lamar, Liberty, Marion, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rains, Red River, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, and Wood.

(iii) The Market Administrator may include additional counties from the states listed in paragraph (e)(1)(ii) of this section upon the request of a pool handler and provision of satisfactory proof that the county is a source of regular supply of milk to order distributing plants.

(iv) Producer milk eligible for a payment under this section cannot be eligible for payment from the transportation credit balancing fund as specified in § 1007.82(c)(2).

(v) The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as producer milk was received at such plant for which a distributing plant delivery credit is requested.

(2) Bulk unconcentrated fluid milk transferred from a pool supply plant regulated pursuant to § 1007.7(c) or (d) to a pool distributing plant regulated pursuant to § 1007.7(a) or (b). The quantity of milk described herein shall be reduced by the quantity of any bulk unconcentrated fluid milk products transferred from a pool distributing plant to a nonpool plant or transferred to a pool supply plant on the same calendar day as milk was received by transfer from a pool supply plant at such pool distributing plant for which a distributing plant delivery credit is requested.

(f) *Credit computation.* Distributing plant delivery credits shall be computed as follows:

(1) With respect to milk delivered directly from the farm to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the shipping farm's county seat and the receiving plant, and multiply the miles by an adjustment rate of not greater than ninety-five percent (95%) and not less than seventy-five percent (75%);

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the county in which the shipping farm is located from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in (f)(1)(i) of this section by the monthly mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(1)(ii) of this section from the rate determined in paragraph (f)(1)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(1)(iv) of this section by the hundredweight of milk described in paragraph (e)(1) of this section;

(2) With respect to milk delivered from a pool supply plant to a distributing plant:

(i) Determine the shortest hard-surface highway distance between the transferring pool plant and the receiving plant, and multiply the miles by an adjustment rate of not greater than ninety-five (95%) percent and not less than seventy-five (75%) percent;

(ii) Subtract the Class I price specified in § 1000.50(a) of this chapter for the transferring pool plant from the Class I price applicable for the county in which the receiving pool distributing plant is located;

(iii) Multiply the adjusted miles so computed in paragraph (f)(2)(i) of this section by the mileage rate factor for the month computed pursuant to paragraph (h) of this section;

(iv) Subtract any positive difference in Class I prices computed in paragraph (f)(2)(ii) of this section from the rate determined in paragraph (f)(2)(iii) of this section;

(v) Multiply the remainder computed in paragraph (f)(2)(iv) of this section by the hundredweight of milk described in paragraph (e)(2) of this section;

(g) *Mileage percentage rate adjustment.* The monthly percentage rate adjustment within the range of permissible percentage adjustments provided in paragraphs (f)(1)(i) and (f)(2)(i) of this section shall be determined by the market administrator, and publicly announced prior to the month for which effective. In determining the percentage adjustment to the actual mileages of milk delivered from farms and milk transferred from pool plants the market administrator shall evaluate the general supply and demand for milk in the marketing area, any previous occurrences of sustained uneconomic movements of milk, and the balances in the distributing plant delivery credit fund. The adjustment percentage pursuant to paragraphs (f)(1) and (2) of this section to the actual miles used for computing distributing plant delivery credits and announced by the market administrator shall always be the same percentage.

(h) *Mileage rate for the distributing plant delivery credit fund.* The mileage rate for the distributing plant delivery credit fund shall be the mileage rate computed by the market administrator pursuant to § 1007.83.

(i) *Oversight of milk movements.* The market administrator shall regularly monitor and evaluate the requests for distributing plant delivery credits to determine that such credits are not encouraging uneconomic movements of milk, and the credits continue to assure orderly marketing and efficient handling

of milk in the marketing area. In making such determinations the market administrator will include in the evaluation the general supply and demand for milk. If the market administrator finds that uneconomic movements are occurring, and such movements are persistent and pervasive, or are not being made in a way that assures orderly marketing and efficient handling of milk in the marketing area, after good cause shown, the market administrator may disallow the payments of distributing plant delivery credit on such milk. Before making such a finding, the market administrator shall give the handler on such milk sufficient notice that an investigation is being considered and shall provide notice that the handler has the opportunity to explain why such movements were necessary, or the opportunity to correct such movements prior to the disallowance of any distributing plant delivery credits. Any disallowance of distributing plant delivery credit pursuant to this provision shall remain confidential between the market administrator and the handler.

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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December 4	Dec 19	Dec 26	Jan 3	Jan 8	Jan 18	Feb 2	Mar 4
December 5	Dec 20	Dec 26	Jan 4	Jan 9	Jan 19	Feb 5	Mar 4
December 6	Dec 21	Dec 27	Jan 5	Jan 10	Jan 22	Feb 5	Mar 5
December 7	Dec 22	Dec 28	Jan 8	Jan 11	Jan 22	Feb 5	Mar 6
December 8	Dec 26	Dec 29	Jan 8	Jan 12	Jan 22	Feb 6	Mar 7
December 11	Dec 26	Jan 2	Jan 10	Jan 16	Jan 25	Feb 9	Mar 11
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December 28	Jan 12	Jan 18	Jan 29	Feb 1	Feb 12	Feb 26	Mar 27
December 29	Jan 16	Jan 19	Jan 29	Feb 2	Feb 12	Feb 27	Mar 28